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SPECTER HAUNTING AMERICA: AN  
EXAMINATION OF THE SEX AND LABOR  
TRAFFICKING LANDSCAPE**

Haunsperger, Natasha B.

Monterey, CA; Naval Postgraduate School

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# **NAVAL POSTGRADUATE SCHOOL**

**MONTEREY, CALIFORNIA**

## **THESIS**

**FOREIGN-BORN HUMAN TRAFFICKING—A DARK  
SPECTRE HAUNTING AMERICA: AN EXAMINATION OF  
THE SEX AND LABOR TRAFFICKING LANDSCAPE**

by

Natasha B. Haunsperger

December 2020

Co-Advisors:

David W. Brannan (contractor)  
Erik J. Dahl

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**FOREIGN-BORN HUMAN TRAFFICKING—A DARK SPECTRE HAUNTING  
AMERICA: AN EXAMINATION OF THE SEX AND LABOR TRAFFICKING  
LANDSCAPE**

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Submitted in partial fulfillment of the  
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES  
(HOMELAND SECURITY AND DEFENSE)**

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## **ABSTRACT**

This research examined how the inclusion of human trafficking as a crime subject to state mandatory reporting requirements would enhance local and state law enforcement efforts to identify, document, and investigate the crimes of foreign-born human trafficking. This thesis documented the impact of state mandatory reporting laws on police responses to domestic violence and child abuse crimes through an examination of relevant legislation and statutes, scholarly works, data collection frameworks, case studies, and statistical findings. It subsequently found that state-level mandatory reporting laws related to domestic violence and child abuse enhanced law enforcement's ability to identify such crimes through improved data collection and analysis. Based on these findings, the incorporation of trafficking crimes into states' existing mandatory reporting frameworks will likely improve law enforcement efforts to create comprehensive data collection and sharing platforms necessary for evidence-based policy development and evaluation of anti-human trafficking strategies. However, amending mandatory reporting laws should be held in abeyance until such time that due consideration can be given to ethical concerns and the potential victim impact of such changes.



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## TABLE OF CONTENTS

<b>I.</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>A.</b>	<b>PROBLEM STATEMENT .....</b>	<b>1</b>
<b>B.</b>	<b>RESEARCH QUESTION .....</b>	<b>5</b>
<b>C.</b>	<b>LITERATURE REVIEW .....</b>	<b>5</b>
1.	On Inadequate Trafficking Data Collection and Analysis Practices in the United States.....	5
2.	Cultural Immigration Barriers and Attitudes—Barriers to Reporting a Crime .....	9
<b>D.</b>	<b>RESEARCH DESIGN .....</b>	<b>15</b>
 <b>II.</b>	 <b>OVERVIEW OF FOREIGN-BORN HUMAN TRAFFICKING IN THE UNITED STATES: HOW DATA COLLECTION LIMITS LAW ENFORCEMENT .....</b>	 <b>19</b>
<b>A.</b>	<b>THE NATURE AND SCOPE OF FOREIGN-BORN HUMAN TRAFFICKING IN THE UNITED STATES .....</b>	<b>19</b>
1.	Claudia’s Story: Labor Trafficking Hidden in Plain Sight .....	21
2.	Common Characteristics of Foreign-born Human Trafficking Victims .....	23
3.	Characteristics of Human Traffickers and their Networks .....	24
<b>B.</b>	<b>FOREIGN-BORN HUMAN TRAFFICKING DATA COLLECTION INFRASTRUCTURE .....</b>	<b>28</b>
1.	Quantifying Foreign-born Human Trafficking.....	29
2.	Selected Legislation that Mandates Data Collection .....	30
3.	Different Numbers from Different Sources .....	32
4.	Problems and Inconsistencies with Data Reporting of FBHT .....	40
<b>C.</b>	<b>LOCAL AND STATE LAW ENFORCEMENT AND FOREIGN-BORN HUMAN TRAFFICKING—A WINDOW OF OPPORTUNITY .....</b>	<b>43</b>
1.	The Case of Henry: Labor Trafficking .....	46
2.	Distinguishing Victimization from Criminal Activities .....	49
3.	The Story of Maya—A Missed Opportunity for Police Officers .....	50
<b>D.</b>	<b>CONCLUSION .....</b>	<b>51</b>
 <b>III.</b>	 <b>MANDATORY REPORTING: OVERVIEW OF DOMESTIC VIOLENCE AND CHILD ABUSE .....</b>	 <b>53</b>

A.	AN OVERVIEW OF DOMESTIC VIOLENCE MANDATORY REPORTING .....	53
1.	The Scope and Nature of Domestic Violence in the United States .....	53
2.	Domestic Violence Legislation—A Law Enforcement Response to Domestic Violence Mandatory Arrest and Mandatory Reporting Laws.....	58
3.	Domestic Violence Data Collection and Sharing Platforms.....	64
B.	AN OVERVIEW OF CHILD ABUSE AND NEGLECT MANDATORY REPORTING .....	67
1.	Nature and the Scope of Child Abuse in the United States—An Overview.....	68
2.	Pathway to Child Abuse Legislative Reforms .....	71
C.	CHILD ABUSE AND NEGLECT DATA COLLECTION INFRASTRUCTURE .....	77
D.	CONCLUSION .....	79
IV.	OVERVIEW OF COMMERCIAL SEX TRAFFICKING TRENDS IN OREGON.....	81
A.	NATURE AND THE SCOPE OF THE COMMERCIAL SEX TRAFFICKING PROBLEM.....	81
1.	Typology of Sex Trafficking in Rural Areas .....	81
2.	Typology of Sex Trafficking in the Metro Areas .....	83
3.	National Human Trafficking Hotline Sex Trafficking Profile of Oregon.....	85
B.	TYPOLGY OF SEX TRAFFICKING VICTIMS .....	87
1.	Who Are the Victims? The Vulnerability of Sex Trafficking Victims .....	88
2.	The Abuse, Cycle of Power, and Control of Sex Trafficking Victims .....	90
3.	Why Do They Not Report? Barriers Trafficking Victims Face to Reporting of Sex Trafficking.....	93
C.	OREGON ANTI-TRAFFICKING LEGISLATIVE FRAMEWORKS ADDRESSING COMMERCIAL SEX TRAFFICKING .....	96
1.	Prevention and Victim’s Assistance Legislative Framework .....	97
2.	State Anti-Trafficking Legislation Addressing Minor Victims of Sex Trafficking.....	98
D.	LAW ENFORCEMENT’S TRADITIONAL RESPONSE TO COMBATING SEX TRAFFICKING.....	100

1.	Law Enforcement’s Cultural Shift in Approaching Sex Trafficking Crimes: A Case of the Portland Police Bureau Re-structuring.....	101
2.	Trafficking Victim and Suspect Identification by Law Enforcement .....	103
3.	Law Enforcement Training Gaps.....	106
E.	CONCLUSION .....	108
V.	“VELVET SHACKLES” AN OVERVIEW OF FOREIGN-BORN LABOR TRAFFICKING IN OREGON.....	109
A.	THE PHENOMENON OF LABOR TRAFFICKING IN OREGON.....	109
1.	The Scope and the Nature of the Problem.....	109
2.	Oregon Foreign-born Demographic as it Relates to Labor Trafficking Exploitation .....	112
B.	T TYPOLOGY OF LABOR TRAFFICKING VICTIMS AND THE NATURE OF ABUSE .....	115
1.	Who Are the Victims? .....	116
2.	“A Story behind a Christmas Tree Reforestation”.....	120
3.	The Abuse, Cycle of Power, and Control of Labor Trafficking Victims; Why They Do Not Just Leave their Traffickers? .....	121
4.	“A Journey of Hope and Shame” .....	122
5.	Why Do They not Report? Barriers Victims Face to Reporting of Labor Trafficking.....	123
C.	OREGON ANTI-TRAFFICKING LEGISLATIVE FRAMEWORKS ADDRESSING LABOR TRAFFICKING.....	126
D.	LAW ENFORCEMENT RESPONSE TO LABOR TRAFFICKING .....	128
1.	The Existing Police Policies and Procedures in Combating Labor Trafficking: The Current Framework .....	128
2.	Trafficking Victim and Suspect Identification by Law Enforcement .....	129
E.	CONCLUSION .....	132
VI.	CONCLUSION AND RECOMMENDATIONS.....	133
A.	SUMMARY OF FINDINGS .....	134
B.	SHARED TYPOLOGIES .....	134
1.	Law Enforcement Response to Mandatory Reporting for Domestic Violence and Child Abuse—Lessons Learned.....	136
2.	Law Enforcement Response to Human Trafficking—Recommendations for Improvement.....	141

<b>C. OPPORTUNITIES FOR FURTHER RESEARCH .....</b>	<b>144</b>
<b>LIST OF REFERENCES.....</b>	<b>147</b>
<b>INITIAL DISTRIBUTION LIST .....</b>	<b>165</b>

## LIST OF FIGURES

Figure 1.	The International Labor Organization and Walk Free Foundation Infographic Depicting Global Labor Trafficking Figures in 2017. ....	20
Figure 2.	Financial Impact and Factors Contributing to Commercial Sex Trafficking. ....	28
Figure 3.	Compiled Data on the Number of Certification Letters Issued by the Health and Human Services to the Department of Justice from 2014–2018.....	33
Figure 4.	Top Source Countries for Trafficking of Minors according to the HHS.....	34
Figure 5.	Top Source Countries for Trafficking of Adults according to the HHS.....	35
Figure 6.	2018 National Trafficking Statistics. ....	37
Figure 7.	2018 Oregon Trafficking Statistics.....	38
Figure 8.	Trafficking Data Submitted to the Uniform Crime Reporting Database.....	40
Figure 9.	Breakdown of 2018 ACF Child Abuse Cases.....	69
Figure 10.	Map of Trafficking Locations in Oregon according to the 2018 Hotline Report.....	76
Figure 11.	NHTH 2018 Trafficking Report Illustrating Sex Trafficking Locations in Oregon in 2018.....	86
Figure 12.	Reported Experiences from Victims of Trafficking. ....	92
Figure 13.	The United Nations Wheel of Abuse for Human Trafficking Victims.....	95
Figure 14.	Portland Police Bureau’s Prostitution-related Arrests. ....	104
Figure 15.	Multnomah County Sheriff’s Office Efforts to Identify Sex Traffickers Housed in a Local Jail. ....	105
Figure 16.	Systemic Barriers to Successfully Combating Human Trafficking.....	143

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## LIST OF TABLES

Table 1.	National Human Trafficking Hotline Data on Reported Trafficking Cases in Oregon from 2016–19. ....	87
Table 2.	National Human Trafficking Data for Oregon.....	111
Table 3.	Percentage of Immigrant Workers in the Leading Oregon Industries. ....	114
Table 4.	Phases of Recruitment of an Undocumented Victim.....	117
Table 5.	Phases of Recruitment of a Documented Labor Victim. ....	119



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## **LIST OF ACRONYMS AND ABBREVIATIONS**

ACF	Administration for Children and Families
ACTeams	Anti-Trafficking Coordination Teams
APA	Abuse Prevention Act
BJS	Bureau of Justice Statistics
BOLI	Bureau of Labor Industry
C.P.	continued presence
CAPTA	Child Abuse Prevention and Treatment Act
CARES	Child Abuse Response and Evaluation Services
CDC	Centers for Disease Control and Prevention
CPS	Child Protective Services
CSEC	Commercial Sexual Exploitation of Children
DHS	Department of Homeland Security
DOJ	Department of Justice
DOS	Department of State
DV	domestic violence
DVFRT	Domestic Violence Fatality Review Teams
DVRU	Domestic Violence Reduction Unit
FATF	Financial Action Task Force
FBHT	foreign-born human trafficking
FBI	Federal Bureau of Investigations
GAO	Government Accountability Office
HHS	Health and Human Services
HSI	Homeland Security Investigations
ICE	Immigration and Customs Enforcement
ILNI	Innocence Lost National Initiative
ILO	International Labor Organization
IOM	International Organization for Migration
IPV	intimate partner violence
LEA	law enforcement agency
LEDS	Law Enforcement Data System

MCDA	Multnomah County District Attorney
MCSO	Multnomah County Sheriff Office
MDT	multidisciplinary team
NBIRS	Nation Incident-Based Reporting System
NCANDS	National Child Abuse and Neglect Systems Database
NCVS	National Crime Victimization Survey
NHTH	National Human Trafficking Hotline
NTA	Notice to Appear
OCAPS	Oregon Child Abuse Prevalence Study
ORS	Oregon Revised Statute
OVW	Office on Violence against Women
PERF	Police Executive Research Forum
PPB	Portland Police Bureau
PPB CAT	Portland Police Bureau Child Abuse Team
PSU	Portland State University
RMS	records management systems
TIP	Trafficking in Persons
T-visas	trafficking visas
TVPA	Trafficking Victim Protection Act
TVPRA	Trafficking Victims Protection Reauthorization Act
UCR	Uniform Crime Reporting
VAWA	Violence against Women Act

## EXECUTIVE SUMMARY

Human trafficking is not only a criminal justice issue; foremost, it is an issue of human rights violations, and gender and economic disparities and inequities. Assessing the scope and prevalence of foreign-born human trafficking in the United States is highly challenging partially due to the hidden and multifaceted nature of human trafficking crimes and a lack of trafficking data collection and sharing platforms both on national and state levels.<sup>1</sup> Many governments and non-government anti-trafficking organizations estimate a wide range of foreign nationals are trafficked into the United States for commercial sex and labor exploitation.<sup>2</sup> While these estimates vary, the most cited figures are from the State Department, stating that approximately 14,500–17,000 persons are trafficked into the United States annually. However, many scholars argue such data are inconclusive and unreliable due to the lack of statistical methodology, which has resulted in gaps and deficiency in understanding the nature, patterns, and methodology of foreign-born human trafficking in urban and rural communities in America.<sup>3</sup>

Similar to the national response framework to human trafficking, the Oregon legislature in 2007 created the anti-trafficking legislation governing local and state law enforcement responses to commercial sex and labor human trafficking crimes.<sup>4</sup> Although the state penal code provides a legal framework for defining the crimes of labor trafficking, not a single labor trafficking case has been prosecuted in state court to date.<sup>5</sup> Contrary to such a lack of criminal justice investigations and data on human trafficking, non-

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<sup>1</sup> Frank Laczko and Marco A. Gramegna, “Developing Better Indicators of Human Trafficking,” *Brown Journal of World Affairs* 10, no. 1 (Summer/Fall 2003): 183, <http://bjwa.brown.edu/10-1/developing-better-indicators-of-human-trafficking/>.

<sup>2</sup> Jo Goodey, “Human Trafficking: Sketchy Data and Policy Responses,” *Criminology and Criminal Justice* 8, no. 4 (2008): 437, <https://doi.org/10.1177/1748895808096471>.

<sup>3</sup> Elżbieta M. Goździak and Micah N. Bump, *Data and Research on Human Trafficking: Bibliography of Research-Based Literature* (Washington, DC: Institute for the Study of International Migration, Georgetown University, 2008), 9, <https://www.ncjrs.gov/pdffiles1/nij/grants/224392.pdf>.

<sup>4</sup> Kathleen Maloney-Dunn and Gwynne Skinner, eds., *Modern Slavery in Our Midst: A Human Trafficking Report on Ending Human Trafficking in Oregon* (Salem, OR: Willamette University College of Law, 2010), 33, <https://willamette.edu/law/pdf/hrc/trafficking-report.pdf>.

<sup>5</sup> Maloney-Dunn and Skinner, 65.

government reports and annual data collected by the National Human Trafficking Hotline (NHTH) indicate that foreign-born labor trafficking exists in Oregon. The NHTH reports that from 2017–2019, 3,099 cases of human trafficking were reported in Oregon.<sup>6</sup> While it is unclear whether local law enforcement investigated and documented any of these suspected trafficking cases, the hotline data are significant as data show that trafficking occurs in many industries, such as agriculture, forestry, hospitality, and construction. Deficiencies in data collection as well as a lack of integrated policies and investigative protocols hamper state and local law enforcement efforts to reduce foreign-born human trafficking.<sup>7</sup>

Additionally, the examination of foreign-born labor trafficking criminal investigations by the Portland Police Bureau serves as a foundation for illustrating how local police officers, in the course of their regular duties, come across labor trafficking cases and interact with trafficking victims. However, police officers continue to misidentify labor trafficking crimes due to a lack of education, training, investigative protocols, and internal policies guiding trafficking data collection and sharing platforms.

This research examined how the inclusion of human trafficking as a crime subject to state mandatory reporting requirements would enhance local and state law enforcement efforts to identify, document, and investigate the crimes of foreign-born human trafficking. This thesis documented the impact of state mandatory reporting laws on police responses to domestic violence and child abuse crimes by examining relevant legislation and statutes, scholarly works, data collection frameworks, case studies, and statistical findings.

This research discovered that federal and state legislative reforms to protect domestic violence and child abuse victims and create pathways for the investigation and protection of victims resulted in monumental social paradigm shifts. Before enacting mandatory reporting laws in the 1960s–70s, law enforcement lacked educational awareness

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<sup>6</sup> “National Human Trafficking Hotline: Oregon,” National Human Trafficking Hotline, 2019, <https://humantraffickinghotline.org/state/oregon>.

<sup>7</sup> Amy Farrell and Rebecca Pfeffer, “Policing Human Trafficking: Cultural Blinders and Organizational Barriers,” *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (2014): 52, <https://doi.org/10.1177/0002716213515835>.

and training to identify, document, and investigate domestic violence crimes. Traditionally, law enforcement viewed the issue of domestic violence and child abuse as private family matters that did not warrant police involvement, except only in cases of serious injuries, or when someone's life is in danger. In practice, these cases fell through the cracks of the criminal justice system. Also, law enforcement did not specifically collect, analyze, and share crime data on child abuse and domestic violence due to the lack of statewide policies.

The enactment of anti-domestic violence and child abuse legislation and mandatory reporting laws required that law enforcement to receive continuous education and training on recognizing and investigating domestic violence and child abuse crimes. In addition, Oregon legislators mandated the creation of standardized data collection and sharing platforms for domestic violence and child abuse, which allowed for an integrated and conclusive analysis of the scope of the problem.<sup>8</sup> Many police departments, such as the Portland Police Bureau, established specialty investigative units with an enhanced focus on trauma-informed investigations and embedded victim specialists in their units.<sup>9</sup>

This research found that a mandatory reporting policy addressing the needs of the most vulnerable demographic of victims, from data collection and law enforcement response, caused a tectonic cultural shift and systemically improved law enforcement awareness, recognition, and response practices. Based on these findings, the incorporation of trafficking crimes into states' existing mandatory reporting frameworks would likely enhance law enforcement efforts to identify and investigate such crimes. This research recommends extensive analysis and further study of existing mandatory reporting policies related to domestic violence and child abuse to identify possible deficiencies and mitigate potential adverse outcomes prior to the amendment of current mandatory reporting requirements. Amending mandatory reporting laws should be held in abeyance until such a time that due consideration can be given to ethical considerations and potential impact of such changes on victims.

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<sup>8</sup> "ORS 181A.225—Reporting of Crime Statistics—2020 Oregon Revised Statutes," Oregon Law, accessed May 29, 2020, <https://www.oregonlaws.org/ors/181A.225>.

<sup>9</sup> "Child Abuse Team (C.A.T.)," City of Portland, Oregon," accessed June 23, 2020, <https://www.portlandoregon.gov/police/article/435145>; "Domestic Violence Reduction Unit (D.V.R.U.)," Police Bureau, accessed April 21, 2020, <https://www.portlandoregon.gov/police/35679>.

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## ACKNOWLEDGMENTS

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Finally, I dedicate my entire body of work and my public service as a police officer to the most inspiring, fierce, stoic, and courageous individuals: human trafficking survivors who trusted me to tell their story about human suffering, gross injustices, and mistreatment. Their profound strength showed me that despite their dark journeys of trafficking, abuse, and exploitation, they seek the light of justice. They want their stories to echo across the systems, and educate, inform, and empower all of us to engage in a collective effort to eradicate human trafficking.

## I. INTRODUCTION

### A. PROBLEM STATEMENT

Human trafficking is a crime that entails compelled labor or commercial sex exploitation of an individual by the use of force, fraud, or coercion by the traffickers for the sole purpose of financial gain and profit, or some form of “value exchange,” such as food, shelter, or drugs.<sup>1</sup> According to the Department of State’s *2018 Trafficking in Persons Report*, human trafficking is not only a global issue but also a domestic concern that “takes place locally—in a favorite nail salon or restaurant; in a neighborhood home or popular hotel; on a city street or rural farm.”<sup>2</sup> Homeland Security Investigations (HSI), one of several federal agencies charged with investigating human trafficking cases, estimates that between 15,000–17,000 people are being trafficked into the United States from other countries (known as foreign-born human trafficking or FBHT) every year for sex and compelled labor exploitation by clandestine networks and organizations.<sup>3</sup> Nevertheless, other agencies report different numbers of victims and trafficking crime-related data. For example, the Department of Justice (DOJ) only captures trafficking data related to federal criminal prosecutions, which according to their records, shows a significant increase in the successful prosecution of trafficking crimes, ranging from 184 human trafficking convictions in 2014 to 439 in the federal court in 2016.<sup>4</sup> The Health and Human Services (HHS) agency, tasked with serving trafficking victims and survivors, also collects human trafficking data represented in the annual issuance of trafficking visas. According to the HHS, 5,568 immigration protection reliefs have been issued and 2,288 trafficking visas

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<sup>1</sup> Department of State, *2018 Trafficking in Persons Report* (Washington, DC: Department of State, 2018), 5, <https://www.state.gov/reports/2018-trafficking-in-persons-report/>.

<sup>2</sup> Department of State, 2.

<sup>3</sup> “Human Trafficking,” State of California Department of Justice, January 6, 2012, <https://oag.ca.gov/human-trafficking>.

<sup>4</sup> “Human Trafficking Defined,” Human Trafficking, October 6, 2015, <https://www.justice.gov/humantrafficking>.

authorized for trafficking victims from 2001–2007.<sup>5</sup> Contrary to the government trafficking data, the Polaris national trafficking hotline, a non-profit agency, reported 8,759 human trafficking cases nationally and identified 4,863 traffickers, 1,698 trafficking businesses, and 10,615 human trafficking victims in 2017.<sup>6</sup> To summarize, no accurate data capture the extent of trafficking activity in the United States, mostly because of its underreporting and under-detection.<sup>7</sup> As such, conflicting reporting on trafficking in the United States suggests that many human trafficking victims in this country remain invisible to law enforcement and homeland security professionals. Human trafficking crimes thus remain unaddressed by law enforcement and the trafficking issues continue to be marginalized.<sup>8</sup>

Indeed, current data collection efforts regarding human trafficking do not accurately reflect the extent of trafficking activities in the United States because of under-reporting and inadequate detection of such activities by law enforcement and social service providers.<sup>9</sup> For example, despite the enactment of the federal Trafficking Victim Protection Act (TVPA) in 2000—federal legislation that criminalizes human trafficking and mandates restitution for the victims—many state and federal government and non-profit organizations have been combating human trafficking by developing response and prevention strategies, victim-centered programs, and protocols, and capturing trafficking data on victims.<sup>10</sup> Yet, these agencies have not been effective in combating FBHT, mostly

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<sup>5</sup> Administration for Children & Families, *Certification for Adult Victims of Human Trafficking, FY 2001–2007: Data Fact Sheet* (Washington, DC: Department of Health and Human Services, 2018), 4, [https://www.acf.hhs.gov/sites/default/files/otip/otip\\_fact\\_sheet\\_on\\_certification\\_data.pdf](https://www.acf.hhs.gov/sites/default/files/otip/otip_fact_sheet_on_certification_data.pdf).

<sup>6</sup> Polaris Project, *2017 Statistics from the National Human Trafficking Hotline and BeFree Textline* (Washington, DC: Polaris Project, 2017), 1, <https://humantraffickinghotline.org/sites/default/files/2017NHTHStats%20%281%29.pdf>.

<sup>7</sup> Jo Goodey, “Human Trafficking: Sketchy Data and Policy Responses,” *Criminology and Criminal Justice* 8, no. 4 (2008): 421–442, <https://doi.org/10.1177/1748895808096471>.

<sup>8</sup> Amy Farrell et al., “Failing Victims? Challenges of the Police Response to Human Trafficking,” *Criminology & Public Policy* 18, no. 3 (2019): 649–73, <https://doi.org/10.1111/1745-9133.12456>.

<sup>9</sup> Maureen Q. McGough, “Ending Modern-Day Slavery: Using Research to Inform U.S. Anti-Human Trafficking Efforts,” *NIJ Journal*, no. 271 (February 2013): 26–32, <https://www.ncjrs.gov/pdffiles1/nij/240695.pdf>.

<sup>10</sup> Brittany Anthony, Jennifer Kimball Penrose, and Sarah Jakiel, *The Typology of Modern Slavery: Defining Sex and Labor Trafficking in the United States* (Washington, DC: Polaris Project, 2017), 5, <https://polarisproject.org/typology-report>.

because of a lack of mandatory reporting and limited interagency cooperation in combating FBHT.<sup>11</sup> These agencies largely operate in silos, provide inadequate information sharing between the appropriate stakeholders, or even do not report these crimes at all. They therefore collectively fail to integrate trafficking intelligence and analysis.<sup>12</sup> For example, suppose a social service agency only provides a victim's resource to a victim but does not disclose some relevant information to the police (e.g., information on the traffickers or the location). In that case, law enforcement remains unaware and cannot investigate trafficking crimes as effectively.

This situation raises an issue into how current challenges to develop accurate data collection methodologies and platforms at all levels—local, state, national, and international—influence criminal justice understanding of the scope of the trafficking problem.<sup>13</sup> Research suggests that foreign-born trafficking victims face many of the same challenges that confront victims of domestic violence and child abuse: physical and psychological trauma, language barriers, lack of familiarity with fundamental rights and potential remedies available to them under the U.S. justice system, fear of law enforcement, and the threat of deportation.<sup>14</sup> For these reasons, the federal legislation proposed necessary and adequate reforms to protect vulnerable crime victims and develop criminal justice response models, as illustrated in the enactment of the Violence against Women Act (VAWA) and the Child Abuse Prevention and Treatment Act (CAPTA). In 1994, pursuant to extensive scholarly research and victim's rights groups' advocacy, the VAWA was

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<sup>11</sup> Kristiina Kangaspunta, "Collecting Data on Human Trafficking: Availability, Reliability and Comparability of Trafficking Data," in *Measuring Human Trafficking: Complexities and Pitfalls*, ed. Ernesto U. Savona and Sonia Stefanizzi (New York: Springer New York, 2007), 27–36, [https://doi.org/10.1007/0-387-68044-6\\_4](https://doi.org/10.1007/0-387-68044-6_4).

<sup>12</sup> Kangaspunta, 28.

<sup>13</sup> Ronald Weitzer, "Miscounting Human Trafficking and Slavery," openDemocracy, October 8, 2014, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/miscounting-human-trafficking-and-slavery/>.

<sup>14</sup> Amy Farrell and Brianne Kane, "Criminal Justice System Responses to Human Trafficking," in *The Palgrave International Handbook of Human Trafficking*, ed. John A. Winterdyk and Jackie Jones (Cham, Switzerland: Springer International Publishing, 2019), 1–17, [https://doi.org/10.1007/978-3-319-63192-9\\_40-1](https://doi.org/10.1007/978-3-319-63192-9_40-1).

enacted. This legislation, in turn, led to the implementation of mandatory reporting of domestic violence.<sup>15</sup>

In addition to domestic violence legislative reforms, scholars and field practitioners addressed similar concerns regarding vulnerable children who are victims of abuse and neglect. In 1974, the federal CAPTA was created, and one of the legislative improvements was the implementation of mandatory reporting of child abuse. The most recent CAPTA amendments in 2015 included mandatory reporting of children who are victims of labor trafficking.<sup>16</sup> According to the 2019 Oregon Child Abuse Prevalence Study (OCAPS), empirical evidence shows that mandatory reporting led to the improvement of data collection and analysis of these crimes, such as healthcare workers reporting possible child abuse to the police, which might not have happened before in the State of Oregon. Mandatory reporting also resulted in the creation of regional multidisciplinary investigative teams (MDTs).<sup>17</sup> MDTs are the best example of how timely and accurate data collection and analysis from various professional perspectives can identify criminal trends and emerging issues, and bring together professionals from specific disciplines (e.g., police, prosecutors, public health officials, child care services, etc.) to work jointly in addressing child abuse cases.

Given the foregoing and the current state of anti-human trafficking efforts, both in the criminal justice system and intelligence collection and analysis realms, this thesis aspires to examine to what extent the enactment of mandatory reporting legislation of human trafficking crimes may improve efforts to identify and combat human trafficking in the state of Oregon. Furthermore, this thesis examines how such legislative action may increase the effectiveness of a law enforcement response to human trafficking, including and improving human trafficking data collection and sharing at a statewide level.

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<sup>15</sup> Violence against Women Reauthorization Act of 2019, H.R. 1585, 116th Cong., 1st. sess. (April 10, 2019), <https://www.congress.gov/bill/116th-congress/house-bill/1585/text>.

<sup>16</sup> “About CAPTA: A Legislative History,” Child Welfare Information Gateway, February 2019, <https://www.childwelfare.gov/pubs/factsheets/about/>.

<sup>17</sup> Center for the Prevention of Abuse and Neglect, *House Bill 3179: Oregon Child Abuse Prevalence Study* (Eugene, OR: Center for the Prevention of Abuse and Neglect, 2019), 2, <https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/178836>.

## **B. RESEARCH QUESTION**

This thesis attempts to answer the following research question: How would incorporating human trafficking as a crime to state mandatory reporting requirements enhance law enforcement efforts to identify, document, and investigate FBHT?

## **C. LITERATURE REVIEW**

To gain a better understanding of current trends and emerging issues associated with Oregon law enforcement agencies' (LEAs') efforts to combat FBHT, this literature review presents a collection of academic research. These topics include the existing legal, immigration law, and institutional barriers and conditions impacting both the government and private sector efforts to collect human trafficking data successfully and provide statistically-based estimates on the prevalence of trafficking crimes. Leading national scholars in criminal justice, immigration law, and human rights have been agreeing that the existing trafficking data collection efforts and standards by government and private sector anti-trafficking organizations are fragmented, inconclusive, and lacking interagency coordination.

### **1. On Inadequate Trafficking Data Collection and Analysis Practices in the United States**

Many national governments and non-profit or private organizations have recognized a growing trend of human trafficking and its impact on human rights violations, public health, police governance, and economic and social disparities, and have thus engaged in anti-trafficking prevention efforts.<sup>18</sup> Many scholars and experts argue that despite these efforts, federal government organizations tasked with combating domestic sex and foreign-born labor human trafficking fail to develop integrated human trafficking databases and interagency protocols and intelligence sharing.<sup>19</sup> Many scholars agree that accurate data and assessment of the scope of human trafficking is necessary for the

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<sup>18</sup> McGough, "Ending Modern-Day Slavery," 27.

<sup>19</sup> Fausto Pocar, "Human Trafficking: A Crime against Humanity," in *Measuring Human Trafficking: Complexities and Pitfalls*, ed. Ernesto U. Savona and Sonia Stefanizzi (New York: Springer New York, 2007), 5–12, [https://doi.org/10.1007/0-387-68044-6\\_2](https://doi.org/10.1007/0-387-68044-6_2).

development of adequate anti-trafficking response strategies. In particular, data related to foreign-born labor trafficking is needed to allocate appropriate resources to assist foreign-born trafficking victims.<sup>20</sup> For example, Frank Laczko, head of the Research Division at the International Organization for Migration (IOM), argues that the lack of standardized and universally adopted human trafficking identification remains unaddressed because of authorities' low prioritization of inadequate legislation on trafficking.<sup>21</sup> Laczko emphasizes that, while a critical need (and urgency) in addressing gaps in data collection exists, anti-trafficking agencies' efforts and continuous oversight to measure their programs and data collected effectively fall far short.<sup>22</sup> Sheldon Zhang, a national expert on labor trafficking at the San Diego University's Department of sociology, agrees with Laczko's critique of the current trafficking collection gaps and also points out a lack of empirical research to measure the scope of the trafficking problem, as well as the absence of reliable estimates on human trafficking in the United States.<sup>23</sup>

Even with the enactment of comprehensive federal anti-trafficking laws in 2000 designed to address the needs and protection of the trafficking victims, the issue of trafficking data collection remains in silos.<sup>24</sup> Several federal government agencies—to include the Department of Homeland Security (DHS), the Federal Bureau of Investigations (FBI), the Department of State (DOS), the DOJ, and the HHS—have been tasked with both investigating trafficking crimes and providing comprehensive services to trafficking

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<sup>20</sup> Sheldon X. Zhang, *Looking for a Hidden Population: Trafficking of Migrant Laborers in San Diego County* (San Diego: San Diego University, 2012), 19, <https://www.ncjrs.gov/pdffiles1/nij/grants/240223.pdf>.

<sup>21</sup> Frank Laczko, "Enhancing Data Collection and Research on Trafficking in Persons," in *Measuring Human Trafficking: Complexities and Pitfalls*, ed. Ernesto U. Savona and Sonia Stefanizzi (New York: Springer New York, 2007), 37–44, [https://doi.org/10.1007/0-387-68044-6\\_5](https://doi.org/10.1007/0-387-68044-6_5).

<sup>22</sup> Frank Laczko and Marco A. Gramegna, "Developing Better Indicators of Human Trafficking," *Brown Journal of World Affairs* 10, no. 1 (Summer/Fall 2003): 179–94, <http://bjwa.brown.edu/10-1/developing-better-indicators-of-human-trafficking/>.

<sup>23</sup> Zhang, *Looking for a Hidden Population*, 26.

<sup>24</sup> Marianne L. Wade, "Combatting Trafficking in Human Beings: A Step on the Road to Global Justice?," in *The Palgrave International Handbook of Human Trafficking*, ed. John A. Winterdyk and Jackie Jones (Cham, Switzerland: Springer International Publishing, 2019), 1–21, [https://doi.org/10.1007/978-3-319-63192-9\\_108-1](https://doi.org/10.1007/978-3-319-63192-9_108-1).

victims.<sup>25</sup> However, no existing national platforms aggregate such valuable trafficking data collected by these agencies, as shown in the 2008 research by Heather Clawson and Nicole Dutch funded by the DOJ.<sup>26</sup> In their 2008 study, *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices*, Clawson and Dutch conducted a review of trafficking prosecution cases filed in federal court from 2000–2007 and developed a comprehensive database that contained both qualitative and quantitative research methods.<sup>27</sup> The purpose of their research was to show how it is possible to build and share a trafficking relevant database that would entail valuable information illustrating trafficking victims’ and traffickers’ demographic data, industries impacted, and trafficking and traffickers’ criminal operations practices.<sup>28</sup> Yet, currently, known trafficking database models in use, similar to the one developed by Clawson and Dutch. To support the research further on the adequate collection and sharing efforts and compartmentalized practices by federal agencies, Frank Laczko and Marco Gramegna warn of the prevalent institutional barriers of government infrastructures that contribute to the fragmentation of trafficking data collections. Laczko and Gramegna argue that even when various agencies gather trafficking data (e.g., the FBI or the HHS), not only do they not share their data, but more specifically, those agencies would not only collect aspects of trafficking data relevant to the nature of their organizations. For example, the FBI would only collect crime or evidence relevant information, whereas their crime reports might contain information that could be useful to federal agencies serving trafficking victims.<sup>29</sup> The issue of compartmentalized trafficking data that could potentially provide a more comprehensive scope of the problem was raised in the 2018 report by the Government Accountability Office (GAO), which noted:

We identified eight entities within the federal government that possesses some information related to domestic and international trafficking. The

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<sup>25</sup> Department of State, *2018 Trafficking in Persons Report*, 443.

<sup>26</sup> Heather J. Clawson et al., *Prosecuting Human Trafficking Cases: Lessons Learned and Promising Practices* (Washington, DC: National Institute of Justice, 2008), 1, <https://www.ncjrs.gov/pdffiles1/nij/grants/223972.pdf>.

<sup>27</sup> Clawson et al., 8.

<sup>28</sup> Clawson et al., 11.

<sup>29</sup> Laczko and Gramegna, “Developing Better Indicators of Human Trafficking,” 185.



Justice Department alone has four different offices that possess domestic trafficking information. None of the federal agencies systematically shares their international data with the others, and no agency analyzes the existing data to help inform international program and resource allocation decisions.<sup>30</sup>

The 2018 GAO report shows that despite ongoing efforts, trafficking data collected by government entities remain in silos. Elzbieta Gozdziaik and Micah Bump from the Institute for the Study of International Migration at Georgetown University agree with Laczko and Gramegna's assessments as they point out the U.S. trafficking data is skewed because

The U.S. Federal Government is also not sharing much statistical information on trafficked victims in federal care. Lack of datasets on the number and characteristics of trafficked victims, the number of traffickers, and the number of prosecutions have forced the researchers to rely on qualitative methodologies.<sup>31</sup>

The consensus concerning this segment of literature is that despite the continuous anti-trafficking programs, the existing federal government and private sectors continue to exhibit inefficiency and inadequacy in their efforts to capture trafficking data accurately, to provide a timely and comprehensive assessment on the scope of human trafficking in the United States, and to share human trafficking information. Furthermore, scholars agree that improved documentation, tracking, monitoring, and interagency sharing of human trafficking data can close the existing gaps in trafficking data collection efforts. This literature review further examines the existing scholarly research and debates on the immigration-related barriers to reporting crime, particularly human trafficking-related crimes.

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<sup>30</sup> Thomas Melito, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*, GAO-06-825 (Washington, DC: Government Accountability Office, 2006), 19, <https://www.gao.gov/assets/260/250812.pdf>.

<sup>31</sup> Elzbieta M. Gozdziaik and Micah N. Bump, *Data and Research on Human Trafficking: Bibliography of Research-Based Literature* (Washington, DC: Institute for the Study of International Migration, Georgetown University, 2008), 29, <https://www.ncjrs.gov/pdffiles1/nij/grants/224392.pdf>.

## 2. Cultural Immigration Barriers and Attitudes—Barriers to Reporting a Crime

As scholars point out, the hidden and complex nature of trafficking crimes inhibits timely and proactive victim identification, documentation, and disruption of criminal activities.<sup>32</sup> The previous section highlighted a current challenge surrounding the lack of accurate and conclusive trafficking data collections and platforms as a barrier to understanding the scope of the trafficking problem. Some scholars argue that a federal immigration system, with its laws and policies, serves as yet another systemic barrier to understanding the scope of the trafficking issue.<sup>33</sup> This section examines scholarly discourse on immigration-related policies, attitudes, and dynamics related to battered immigrant victims' issues. It aims to show how federal immigration laws and policies shape cultural and institutional attitudes toward battered immigrant victims, particularly law enforcement and the criminal justice system. The examination of scholarly studies on the correlation between immigration policies and the existing structural and institutional frameworks for reporting criminal activity and victimization is essential for this research.

Some scholars argue that an immigrant's status and an immigrant crime victim's understanding and experiences of immigration law serves as a foundational barrier to reporting crimes, which inadvertently results in under-reporting or no available data. Edna Erez, a professor in the Department of Criminology, Law, and Justice at the University of Illinois, is a leading scholar on violence against immigrant women. Erez contends that both documented and undocumented immigrant victims face monumental institutional and structural barriers that prevent them from reporting abuse or creating additional challenges to navigate the criminal justice and legal system. She posits that victims' cultural, linguistic, and socio-economic backgrounds, compounded by the lack of understanding of

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<sup>32</sup> Norma Gonzalez, "The 'Other' Side of Human Trafficking: Effectively Advocating for Labor Trafficking Survivors under the Trafficking Victims Protection Act," *Seattle Journal for Social Justice* 14, no. 3 (Spring 2016): 856, <https://digitalcommons.law.seattleu.edu/sjsj/vol14/iss3/13>; Heather J. Clawson and Nicole Dutch, *Identifying Victims of Human Trafficking: Inherent Challenges and Promising Strategies from the Field* (Washington, DC: Department of Human Health and Services, 2008), 2, <https://aspe.hhs.gov/report/identifying-victims-human-trafficking-inherent-challenges-and-promising-strategies-field>.

<sup>33</sup> William F. McDonald and Edna Erez, "Immigrants as Victims: A Framework," *International Review of Victimology* 14, no. 1 (2007): 2, <https://doi.org/10.1177/026975800701400101>.

their rights, and U.S. laws, are often barriers to reporting victimization and seeking assistance.<sup>34</sup> To expand on the context of the cultural obstacles, Guadalupe T. Vidales, Criminal Justice Department professor at the University of Wisconsin, in her research on battered Latino women, points out a difference in cultural views and attitudes toward domestic battery and violence in general.<sup>35</sup> For example, Vidales writes that Mexico has a law called “*abandono de hogar* (abandonment of the home),” stating that if a battered woman leaves her abuser, she may lose custody of her children. Vidales states that many battered Mexican victims are unaware of their rights once in the United States and continue to conform to their native cultural norms.<sup>36</sup> The research of Sarah M. Woods, an immigration scholar, supports that finding that battered immigrant victims often fear losing their children and being separated from their families, which thus prevents these victims from reporting their abuse to the police. Wood points out that because so many immigrant victims have deeply ingrained cultural stigmas of breaking up families and reporting abuse, they do not seek help, thus arguing that cultural norms are a significant barrier for immigrant victims.<sup>37</sup> Vidales’ illustration indicates the challenges and complexities of acculturation and integration of victims into mainstream American society. It points out significant gaps that the immigration laws, policies, and prevention programs have to address to ensure the successful implementation of immigration laws. It is fair to state that even the cultural blinders of victims concerning immigration policies and their rights to services and immigration protection acts as a significant barrier to the timely reporting of their victimization.

In addition to cultural blinders and barriers, Erez highlights that contrary to the native victims of crime, many immigrant victims fear deportation or immigration-related

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<sup>34</sup> Edna Erez, Madelaine Adelman, and Carol Gregory, “Intersections of Immigration and Domestic Violence: Voices of Battered Immigrant Women,” *Feminist Criminology* 4, no. 1 (January 2009): 37, <https://doi.org/10.1177/1557085108325413>.

<sup>35</sup> Guadalupe Vidales, “Arrested Justice: The Multifaceted Plight of Immigrant Latinas Who Faced Domestic Violence,” *Journal of Family Violence* 25, no. 6 (August 2010): 539, <https://doi.org/10.1007/s10896-010-9309-5>.

<sup>36</sup> Vidales, 539.

<sup>37</sup> Sarah M. Wood, “VAWA’s Unfinished Business: The Immigrant Women Who Fall through the Cracks Queer Theory, Feminism, and the Law: Note,” *Duke Journal of Gender Law & Policy* 11 (Spring 2004): 142, <https://scholarship.law.duke.edu/djglp/vol11/iss1/8/>.

legal penalties if they report their victimization. Not only are battered immigrant victims subject and trapped in the cycle of abuse and exploitation, but they have to face and overcome legal immigration barriers to seek protection and assistance.<sup>38</sup> At the University of Nevada, Michael Kagan supports Erez's assertion, and states "the fear of deportation has created a class of silent victims" and frames these obstacles as a foundational structural barrier to reporting criminal activity.<sup>39</sup>

While Woods agrees with Erez's viewpoints, she further points out the disproportionate and inequitable framing of immigration laws when addressing undocumented battered victims' needs. Woods recognized that since the 1990s, several federal legislation laws addressed and improved battered immigrants' status, such as the Battered Spouse Waiver Amendment (1990), the VAWA (1994), and the 2000 VAWA reforms.<sup>40</sup> These federal immigration laws provide legal protection and a lawful pathway to citizenship to battered immigrant victims whose abusers are U.S. citizens or residents and use deportation threats as control and coercive tactics. The VAWA legislation allows battered victims whose abusers are U.S. citizens to self-petition for immigration relief; however, immigrant victims whose abusers are undocumented immigrants lack such privileges and justice assistance. In cases in which both a victim and an abuser are undocumented immigrants, a victim must report a crime to the police and cooperate with the criminal investigation to demonstrate "good character" and a willingness to assist in the justice process.<sup>41</sup> Many scholars argue that vetting and corroborating a battered undocumented victim's abuse and exploitation allegations creates significant challenges as the process relies on the subjectivity of the law enforcement or other relevant immigration officials investigating the criminal allegations. For example, Rupaleem Bhuyan, a University of Kansas professor, writes that such "legal subjectivity" of vetting victims results in the creation of "good victims" who cooperate with authorities and are granted a

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<sup>38</sup> Robert C. Davis, Edna Perez, and Nancy E. Avitabile, "Immigrants and the Criminal Justice System: An Exploratory Study," *Violence and Victims* 13, no. 1 (1998): 28, ProQuest.

<sup>39</sup> Michael Kagan, "Immigrant Victims, Immigrant Accusers," *University of Michigan Journal of Law Reform* 48, no. 4 (Summer 2015): 921, <http://scholars.law.unlv.edu/facpub/902>.

<sup>40</sup> Wood, "VAWA's Unfinished Business," 147.

<sup>41</sup> Wood, 150.

pathway to resources and services. Those victims who do not follow through with the investigation, who drop criminal charges, or who do not appear in court to testify are labeled “bad victims,” and thus they are denied access to immigration relief and services.<sup>42</sup>

Woods argues that while these legislative provisions were drafted in good faith, in actuality, such legal requirements imposed on undocumented victims create an environment of inequities and biases by the criminal justice stakeholders. For example, she points out that if law enforcement does not press criminal charges against the abusers or deems the victim to be unreliable or lacks credibility, the victim is left unprotected from deportation and cannot access victims’ services.<sup>43</sup> Thus, it appears that not only do undocumented victims fall through the cracks of the criminal justice system, but also they are also more likely not to report their abuse and victimization.<sup>44</sup> Amy Farrell points out that such institutional barriers, such as law enforcement’s lack of education and awareness of domestic violence or human trafficking, are often systemic barriers to identifying victims of crime.<sup>45</sup> The relevance of these scholarly discussions on labeling and defining the worthiness of a victim’s access to services and protection is that the lack of understanding cultural barriers, cycles of abuse, and impact of trauma on battered victims can inhibit law enforcement and other officials in detecting, identifying, and recognizing elements of abuse.

Another issue significant for this research is the complex issue of how the immigration law defines and regulates the eligibility of a victim; in other words, which victims are deemed credible and compliant to receive legal immigration protection. Wendy Chapkis, professor of Sociology and Women & Gender Studies at the University of Southern Main, offers yet another perspective on the national immigration discourse and its implications on the status of immigrant victims of crime. Chapkis argues that

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<sup>42</sup> Rupaleem Bhuyan, “The Production of the ‘Battered Immigrant’ in Public Policy and Domestic Violence Advocacy,” *Journal of Interpersonal Violence* 23, no. 2 (2008): 163, <https://doi.org/10.1177/0886260507308317>.

<sup>43</sup> Wood, “VAWA’s Unfinished Business,” 150.

<sup>44</sup> Wood, 150.

<sup>45</sup> Amy Farrell, Rebecca Pfeffer, and Katherine Bright, “Police Perceptions of Human Trafficking,” *Journal of Crime and Justice* 38, no. 3 (2015): 317, <https://doi.org/10.1080/0735648X.2014.995412>.

immigration policymakers intentionally influence public attitudes by framing immigrants into two categories “innocent victims” and “guilty immigrants.”<sup>46</sup> Chapkis writes that the anti-trafficking legislation and immigration laws use gender biases to divide victims of trafficking into these two categories, innocent women and children forced into sexual slavery versus migrant workers (mostly males) who violated national borders in their pursuit of employment.<sup>47</sup> Chapkis states that such discourse on categorizing immigrant victims creates attitudes that innocent sex trafficking victims deserve to be rescued and allowed access to services and pathways to citizenship.

In contrast, undocumented migrant laborers, who willingly violated the border policies, automatically need to be punished.<sup>48</sup> George Borjas, a leading immigration economist at Harvard University, conducted an immigration analysis related to the economic cost of low skills, mostly undocumented, Cuban migrant laborers in Miami in 2017.<sup>49</sup> In his study, Borjas argues that low-skilled immigrant workers negatively impact the wages of USA-born workers and compete with the native workforce.<sup>50</sup> Critics of Borjas’ research point out that such analysis creates public fears that migrant laborers are taking working jobs from USA-born citizens. One of those critics, Elizabeth Fussell, a Professor of Sociology at the University of Washington, argues that whether those fears are justified or not, they create public attitudes that migrant laborers harm society and thus are viewed as a threat.<sup>51</sup> It is noteworthy that the Trump administration applied Borjas’ study as one of the arguments for implementing restrictive immigration policies. Bryan Caplan, a professor of Economics at George Mason University, challenged and questioned

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<sup>46</sup> Wendy Chapkis, “Trafficking, Migration, and the Law: Protecting Innocents, Punishing Immigrants,” *Gender & Society* 17, no. 6 (2003): 923, <https://doi.org/10.1177/0891243203257477>.

<sup>47</sup> Chapkis, 924.

<sup>48</sup> Chapkis, 924, 930.

<sup>49</sup> George J. Borjas, *The Wage Impact of the Marielitos: A Reappraisal*, NBER Working Paper No. 21588 (Cambridge, MA: National Bureau of Economic Research, 2015), 2, [https://www.nber.org/system/files/working\\_papers/w21588/w21588.pdf](https://www.nber.org/system/files/working_papers/w21588/w21588.pdf).

<sup>50</sup> Borjas, 27.

<sup>51</sup> Elizabeth Fussell, “Warmth of the Welcome: Attitudes toward Immigrants and Immigration Policy in the United States,” *Annual Review of Sociology* 40, no. 1 (2014): 484, <https://doi.org/10.1146/annurev-soc-071913-043325>.

the legitimacy of Borjas' study based on flawed data used in the initial study. Caplan pointed out that such assertions and rationale of "protecting American workers" are weak and unjustified and create negative public attitudes toward labor-based immigration.<sup>52</sup> Creating such dangerous stereotypes and assumptions on battered and trafficked victims' typology can lead to creating harmful public attitudes toward crime victims.

As Woods points out, one of the VAWA 2000 section clearly states that "the goal of immigration protections for battered immigrants included in the VAWA of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in an abusive relationship."<sup>53</sup>

Yet, in 2018, the president issued Executive Order 13768, "Enhancing Public Safety in the Interior of the United States" in the administration's effort to address immigration policies and curb illegal immigration. This particular order provides the DHS with a legal instrument called "Notices to Appear (NTAs).<sup>54</sup> The issuance of the NTAs orders to undocumented victims in the court proceedings allows the DHS to remove and deport undocumented aliens. The application of the NTAs results in the deportation of illegal aliens who violated any federal law.<sup>55</sup> Thus, those battered victims whose petitions for immigration relief were denied or, for whatever reason, law enforcement did not proceed with a criminal investigation are presently subject to deportation. Immigration scholars agree that such a shift in immigration policies creates anti-immigration sentiment and attitudes that only further contribute to battered undocumented victims' isolation.

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<sup>52</sup> Bryan Caplan, "Why Should We Restrict Immigration?," *CATO Journal* 32, no. 1 (Winter 2012): 9, 21, <https://econfaculty.gmu.edu/bcaplan/pdfs/whyimmigration.pdf>.

<sup>53</sup> Wood, "VAWA's Unfinished Business," 147.

<sup>54</sup> U.S. Citizenship and Immigration Services, "Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens" (policy memorandum, Washington, DC, U.S. Citizenship and Immigration Services, 2018), 2, <https://www.uscis.gov/sites/default/files/document/memos/2018-06-28-PM-602-0050.1-Guidance-for-Referral-of-Cases-and-Issuance-of-NTA.pdf>.

<sup>55</sup> Paul Wickham Schmidt, "An Overview and Critique of U.S. Immigration and Asylum Policies in the Trump Era," *Journal on Migration and Human Security* 7, no. 3 (2019): 98, <https://doi.org/10.1177/2331502419866203>.

Scholarly consensus is that the immigrant victims of crime face complex cultural, linguistic, and institutional barriers to reporting their victimization to authorities.<sup>56</sup> Highly polarized and contentious national discourse on immigration, immigration enforcement, and efforts to curb illegal immigration contribute to creating public and institutional attitudes and biases toward categorizing an immigrant victim.

#### **D. RESEARCH DESIGN**

As national anti-trafficking initiatives and prevention strategies efforts remain fragmented and human trafficking data inconclusive, this study sought to determine how legislative reforms and revised human trafficking reporting models could contribute to creating human trafficking intelligence collection systems in the state of Oregon. This thesis conducted a comparative case study analysis of two existing mandatory reporting policies in Oregon: domestic violence and child abuse.<sup>57</sup> Additionally, the study analyzed how such a policy enhancement could facilitate establishing a statewide database, addressing the need for trafficking intelligence-related products, and identifying successes and failures associated with the mandatory reporting of domestic violence and child abuse practices.

Before enacting family abuse mandatory reporting policies and laws, local and state law enforcement only documented family violence incidents that resulted in an arrest of an involved party under specific family violence criminal statutes.<sup>58</sup> For family violence incidents that did not necessarily rise to the level of a possible arrest, police officers could exercise personal and professional discretion in deciding whether even to document such

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<sup>56</sup> McDonald and Erez, “Immigrants as Victims,” 6; Sharon Quinsaat, “Competing News Frames and Hegemonic Discourses in the Construction of Contemporary Immigration and Immigrants in the United States,” *Mass Communication & Society* 17, no. 4 (2014): 592, <https://doi.org/10.1080/15205436.2013.816742>.

<sup>57</sup> Abigail English, “Mandatory Reporting of Human Trafficking: Potential Benefits and Risks of Harm,” *AMA Journal of Ethics* 19, no. 1 (January 2017): 54–62, <https://doi.org/10.1001/journalofethics.2017.19.1.pfor1-1701>; Oregon Department of Justice, *Juvenile Code: Dependency* (Oregon: Oregon Department of Justice, 2018), 3, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors419B.html](https://www.oregonlegislature.gov/bills_laws/ors/ors419B.html).

<sup>58</sup> Melissa Reuland et al., *Police-Community Partnership to Address Domestic Violence* (Washington, DC: Department of Justice, 2006), 3, <https://cops.usdoj.gov/RIC/Publications/cops-p091-pub.pdf>.



incidents in a police report. Such practices led to the creation of an incomplete database of family violence crimes and a corresponding failure in documenting family violence, criminal trends, and behaviors. These practices reflected the commonly held perception that family violence was a private, family matter. As a result of victim rights groups' advocacy and academic research into the scope, impact, and cycle of abuse and trauma, the criminal justice system reformed its approach to family abuse.<sup>59</sup> Due to mandatory reporting protocols, law enforcement documents, collects, and analyzes all reports indicating abuse and provides timely and accurate assessments of the scope and the severity of these issues. As a result of mandatory reporting of domestic violence, a lethality risk assessment tool was created and currently used by law enforcement nationally when responding to domestic abuse calls.<sup>60</sup> This research examined how these mandatory reporting policies could be applied to protect the most vulnerable demographic of trafficking victims who might be exhibiting symptoms of abuse and exploitation framed by these mandatory reporting laws of domestic, child, and elder abuse.<sup>61</sup> Building on these past best and successful law enforcement practices, this thesis develops a mandatory human trafficking reporting policy for the state of Oregon. Ultimately, this research sought to identify a model for mandatory human trafficking crime reporting; one that would facilitate the creation of the kind of sustainable data collection platform necessary for centralized and integrated human trafficking intelligence analysis at the state level.

In conducting this research, I consulted primary sources to include state and federal government anti-trafficking laws and penal codes, policies outlined in the Trafficking Victim Protection Act (TVPA), the federal CAPTA, and a series of scholarly studies

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<sup>59</sup> Deborah I. Bybee and Cris M. Sullivan, "The Process through Which an Advocacy Intervention Resulted in Positive Change for Battered Women over Time," *American Journal of Community Psychology* 30, no. 1 (February 2002): 103–32, <https://doi.org/10.1023/A:1014376202459>.

<sup>60</sup> Jill Theresa Messing et al., *Police Departments' Use of the Lethality Assessment Program: A Quasi-Experimental Evaluation* (Washington, DC: National Institute of Justice, 2014), 2, <https://www.ncjrs.gov/pdffiles1/nij/grants/247456.pdf>.

<sup>61</sup> Leonard G. Brown, III and Kevin Gallagher, "Mandatory Reporting of Abuse: A Historical Perspective on the Evolution of States' Current Mandatory Reporting Laws with a Review of the Laws in the Commonwealth of Pennsylvania," *Villanova Law Review* 59, no. 6 (2015): 37–80, <http://digitalcommons.law.villanova.edu/vlr/vol59/iss6/5>.

focused on human trafficking prevention strategies and response challenges.<sup>62</sup> Secondary sources comprised publications from various non-governmental organizations, research conducted and documented by private organizations, anti-trafficking media campaigns, and relevant literary publications. Due to the limited availability of trafficking data in the state of Oregon, this research evaluates and analyzes readily available and vetted trafficking information. This information includes data collected and maintained by the Oregon branch of the Polaris National Anti-Trafficking Hotline, local and state police reports documenting human trafficking crimes, and public records of the U.S. Attorney's Office and its Oregon-based Federal Task Force on Foreign-born Human Trafficking. The scope of this research is somewhat constrained by the limited number of trafficking records available for review in the state criminal justice databases. However, an analysis of known trafficking case studies aims to offer and illustrate a composite of ethnocentric trafficking case studies and scenarios revealing trafficking operations in Oregon.

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<sup>62</sup> Child Welfare Information Gateway, "About CAPTA: A Legislative History."

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## **II. OVERVIEW OF FOREIGN-BORN HUMAN TRAFFICKING IN THE UNITED STATES: HOW DATA COLLECTION LIMITS LAW ENFORCEMENT**

This chapter provides insights into the complex nature of the FBHT issue in the United States. To outline this issue comprehensively, this chapter first examines the nature and the scope of FBHT crimes. It then reviews a current trafficking data and intelligence collection platforms on both state and national level. Lastly, this chapter analyses a law enforcement response to identifying and investigating FBHT crimes. This thesis incorporates specific segments from human trafficking criminal investigations conducted in Oregon in the last seven years. The mosaic of trafficking victims' testimonials offers insights into the multifaceted layers of human trafficking crimes and the most prevalent barriers to reporting and tracking FBHT criminal activities at a local and state level. This chapter aims to highlight the most significant gaps in law enforcement's response to identifying and responding to the issue of FBHT to identify appropriate and tailored policy recommendations for combating FBHT on the state level.

### **A. THE NATURE AND SCOPE OF FOREIGN-BORN HUMAN TRAFFICKING IN THE UNITED STATES**

This section presents the nature and scope of the current known FBHT problem. Federal criminal justice databases and data collected by national victim-based service agencies serve as primary sources. This section highlights some of the gaps and barriers to collecting accurate data on human trafficking in the United States.

According to scholars and field practitioners, human trafficking trends result from a number of factors, including the globalization of the world economy, tectonic shifts in geopolitical and economic divides, and global socio-political dynamics.<sup>63</sup> Armed conflicts, failed states, natural disasters, and climate change are among the factors contributing to global economic migrations; these migrations, in turn, create a demographic of vulnerable people seeking employment in developed countries. As shown in Figure 1, in 2017, the

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<sup>63</sup> Pocar, "Human Trafficking."

International Labor Organization (ILO) released a report estimating that in 2016, human trafficking victims numbered 40.3 million worldwide, of which 24.9 million were victims of labor trafficking.<sup>64</sup> According to the ILO report, industries, such as domestic work, construction, manufacturing, and agriculture and fishing, appear to be target industries for engaging in labor trafficking worldwide.<sup>65</sup>

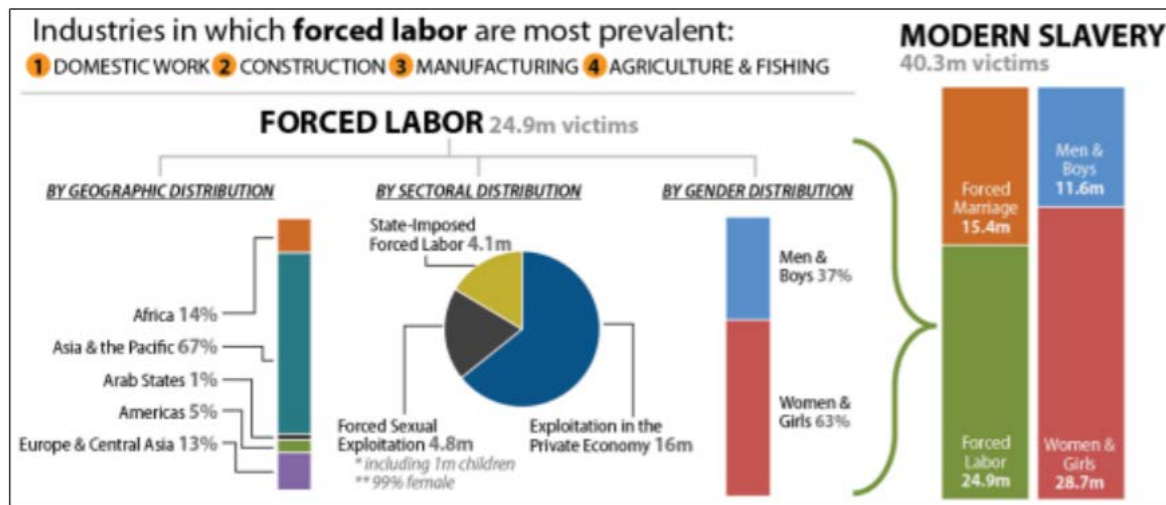


Figure 1. The International Labor Organization and Walk Free Foundation Infographic Depicting Global Labor Trafficking Figures in 2017.<sup>66</sup>

Trafficking crimes are not a modern-day phenomenon unique to distant, corrupt states. While certain types of trafficking—including trafficking in body organs, child soldier exploitations, forced marriages of young women, and the sex trade of women as a funding avenue for terrorism are common overseas—exploitation of men, women, and children for the purposes of commercial sex and forced labor are prevalent in the United

<sup>64</sup> International Labour Organization and Walk Free Foundation, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: International Labour Organization, 2017), 9, [https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf).

<sup>65</sup> International Labour Organization and Walk Free Foundation, 65.

<sup>66</sup> Source: Liana W. Rosen, *Human Trafficking: New Global Estimates of Forced Labor and Modern Slavery*, CRS Report No. IN10803 (Washington, DC: Congressional Research Service, 2017), 2, <https://crsreports.congress.gov/product/pdf/IN/IN10803>.

States.<sup>67</sup> Such global trends and events combined with transnational mobility and migrations contribute to illicit trafficking crimes in rural and urban parts of the country, which thus violate criminal justice and the human rights of victims residing inside the American borders.

The following trafficking case study is based on a Portland Police Bureau (PPB) criminal investigation conducted in 2017 that illustrates the nature and typology of labor trafficking victimization and intersectionality. The PPB investigation involved a trafficking victim whose real name remains confidential, but who is here identified as Claudia.<sup>68</sup>

### **1. Claudia's Story: Labor Trafficking Hidden in Plain Sight**

Claudia—a retired nurse living in Colombia—was recruited by a local friend to take on a temporary job as a nanny with a wealthy family in Oregon. The family came from the same Colombian city as Claudia and had influence and close ties to the Colombian government. Claudia met the husband and wife as they were visiting their hometown and agreed to a six-month job that purportedly would allow her to earn enough money to support herself. Claudia had to borrow money for travel expenses too.

The husband and wife, from now on referred to as the traffickers, told Claudia to obtain a tourist visa, as they were going to arrange her work permit once she was in the United States. Once Claudia arrived in Oregon, however, the traffickers seized her passport, restricted her movement, monitored her limited phone conversations with family members in Colombia, forced her to work 15-hour-long shifts, seven days a week, withheld her wages, subjected her to prolonged mental and emotional abuse, and threatened her with prison and deportation if she escaped or called the police. The traffickers also threatened her with reputational harm, e.g., telling her family in Colombia false stories about her lewd behavior in America, thereby causing her shame and embarrassment.

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<sup>67</sup> Financial Action Task Force, *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants* (Paris: FATF/OCED, 2011), 14, <http://www.fatf-gafi.org/media/fatf/documents/reports/Trafficking%20in%20Human%20Beings%20and%20Smuggling%20of%20Migrants.pdf>.

<sup>68</sup> Portland Police Records.2017.

For the next seven years, Claudia lived in the basement of a suburban Lake Oswego million-dollar house, where she took care of the traffickers' children without ever receiving compensation for her work. The traffickers told her that since she was an "illegal," she was not allowed to open a bank account and that they were going to save her salary, which, in fact, they did not. Claudia stated that on one occasion, out of despair, she walked out of the house and wandered the streets of that little town. She told the investigator that a local police officer contacted her after a concerned community member reported a "distraught woman wandering around for hours." A local police officer contacted Claudia under the community welfare check statute. Since she did not speak any English, she just showed him a piece of paper with her traffickers' home address. Based on an interview with a trafficking victim by the Lake Oswego Police Department in Oregon on July 30, 2016, the officer transported Claudia back to the house where her trafficker told the officer she was their family member who "just got lost." In hindsight, that encounter was Claudia's one opportunity to be rescued. Still, because the officer did not recognize red flags nor ask questions about her safety and build a rapport with her, Claudia was sent back to her traffickers. Eventually, with the help of a landscape worker, Claudia was able to escape from her captivity. By the time Claudia met with a police officer, three years after her escape, the traffickers had moved out of the state, and the case was never brought to justice.

When asked what prevented her from seeking help, Claudia said she did not know she had any rights in America because of her undocumented immigration status. She felt guilt and shame for ending up in that situation. Besides, she said the family had acquired the services of other "nannies" prior to her experience. She was led to believe the traffickers had avoided punishment for their past actions and that nobody would believe her. Above all, however, Claudia said that she feared the police.

Federal law defines labor trafficking as "the recruitment, harboring, transportation, provision, or obtaining of a person for labor services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."<sup>69</sup> Claudia's experience reflects many of the elements articulated in the federal

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<sup>69</sup> Human Trafficking, "Human Trafficking Defined."

trafficking statute. It shows a common methodology used by traffickers who travel to their countries of origin to prey upon vulnerable and desperate victims. Traffickers not only make false promises and offer lucrative jobs, but they also use numerous methods to control their victims. These methods include using the threat of violence or torture, withholding of their wages, isolation from the outside world, restriction of movement, threats against victims' families in their countries of origin, reputational harm, debt bondage, and other means of coercion, and fear of police treatment as illustrated in Claudia's example.<sup>70</sup> The story of Claudia's exploitation provides a more informed understanding of the trafficking patterns and cycles of recruitment and control. Such case studies provide an educational framework for police to detect and identify human trafficking signs.

## **2. Common Characteristics of Foreign-born Human Trafficking Victims**

Insofar as foreign-born trafficking victims in the United States come from all conceivable educational, ethnic, socio-economic, and linguistic backgrounds, a one-size-fits-all stereotype of foreign-born trafficking victims' backgrounds fails to capture their varied nature.<sup>71</sup> However, such victims do share many characteristics that render them vulnerable to trafficking exploitation. Medical clinical studies have shown that foreign-born victims are commonly distrustful of and fearful of the police, do not know how to access justice and victim assistance, are unaware of their rights to protection, and lack financial resources.<sup>72</sup> Such a foundational lack of knowledge serves as a significant barrier to a victim's ability to self-identify and successfully access and navigate the criminal justice system.

Moreover, foreign-born trafficking victims often lack English language skills, and in some cases, can only speak a specific indigenous dialect, which limits their

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<sup>70</sup> Deanna Davy, "Anti-Human Trafficking Interventions: How Do We Know If They Are Working?," *American Journal of Evaluation* 37, no. 4 (2016): 488, <https://doi.org/10.1177/1098214016630615>.

<sup>71</sup> Colleen Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States* (Washington, DC: Urban Institute, 2004), 24, <https://www.urban.org/sites/default/files/publication/33821/413249-Understanding-the-Organization-Operation-and-Victimization-Process-of-Labor-Trafficking-in-the-United-States.PDF>.

<sup>72</sup> Kevin Bales, Laurel E. Fletcher, and Eric Stover, "Hidden Slaves: Forced Labor in the United States," *Berkeley Journal of International Law* 23 (2005): 47–111, <https://lawcat.berkeley.edu/record/1119786?ln=en>.



communication to only their traffickers.<sup>73</sup> Many of these victims feel shame and guilt, experience deeply rooted trauma, and suffer from prolonged cycles of power and abuse.<sup>74</sup> As a result of the barriers mentioned previously, many FBHT victims do not self-identify as victims of crime, which thus creates significant challenges for identification and rescue by law enforcement agencies.<sup>75</sup> Moreover, traffickers use these barriers to further their control and assert their power over victims.<sup>76</sup>

Claudia's story illustrates the multifaceted nature of forced labor trafficking operations, including the fact that such operations are often hidden from the public eye, which thereby makes detection and disruption more difficult. Another characteristic of trafficking crimes is that they are highly transitory. Traffickers often move their victims across the county and state lines depending on the source of labor that then creates significant challenges for law enforcement to detect and disrupt trafficking. For example, traffickers transport their victims to areas in need of seasonal labor, such as picking berries in early summer and then transporting them to possible Christmas tree farms. Alternatively, even if traffickers fear possible police raids, they may just re-locate their illicit activity to an environment they perceive to be less risky.

### **3. Characteristics of Human Traffickers and their Networks**

Traffickers exploit victims in various settings, such as in single-family households, as in the case of Claudia, in agricultural and forestry fields as seasonal laborers, in low-wage positions in restaurants janitorial services, as well as in numerous other labor

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<sup>73</sup> Kathleen Maloney-Dunn and Gwynne Skinner, eds., *Modern Slavery in Our Midst: A Human Trafficking Report on Ending Human Trafficking in Oregon* (Salem, OR: Willamette University College of Law, 2010), 69, <https://willamette.edu/law/pdf/hrc/trafficking-report.pdf>.

<sup>74</sup> Holly G. Atkinson, Kevin J. Curnin, and Nicole C. Hanson, "U.S. State Laws Addressing Human Trafficking: Education of and Mandatory Reporting by Health Care Providers and Other Professionals," *Journal of Human Trafficking* 2, no. 2 (2016): 112, <https://doi.org/10.1080/23322705.2016.1175885>.

<sup>75</sup> Atkinson, Curnin, and Hanson, 112.

<sup>76</sup> Erin Williamson, Nicole M. Dutch, and Heather Clawson, *Medical Treatment of Victims of Sexual Assault and Domestic Violence and Its Applicability to Victims of Human Trafficking* (Washington, DC: U.S. Department of Health and Human Services, Administration for Children and Families, 2010), 14, <https://aspe.hhs.gov/system/files/pdf/76121/index.pdf>.

sectors.<sup>77</sup> Despite popular belief, not all FHBT trafficking victims enter the United States illegally, using illegal border crossings with the help of a “coyote” (a popular term for a human smuggler). Evidence shows that many trafficking victims obtain lawful immigration documents and work visas in their countries of origin. Still, upon arrival to the United States, traffickers either seize the victims’ travel documents or force them to work in jobs not sanctioned by the work visa documents.<sup>78</sup> Understanding that even legitimate businesses that adhere to federal immigration protocols engage in illicit crimes can improve the screening application process for federal agents and increase their ability to identify possible trafficking victims.

While scholarly research on trafficking organizations and networks continues to evolve, anecdotal evidence suggests that traffickers cannot be readily recognized. Media coverage of high-profile sex trafficking rings operated by cartels and other criminal groups has contributed to the myth that traffickers are, without exception, members of criminal organizations.<sup>79</sup> Although organized crime groups are involved in trafficking operations in some incidents, scholarly research has shown that traffickers are more likely to be trusted friends or family members, small-sized groups, neighbors, or legitimate and illegitimate businesses.<sup>80</sup> As illustrated in Claudia’s case, when traffickers encountered a police officer, they presented themselves as family members and thus implied they “belong together” to avoid suspicion and detection by police officers.

Furthermore, research and case studies have shown that traffickers and their victims often share a common ethnic and cultural background.<sup>81</sup> Claudia, the victim in the prior-referenced example, stated that she believed she could trust her traffickers as they were a

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<sup>77</sup> Davy, “Anti–Human Trafficking Interventions,” 488.

<sup>78</sup> Clawson and Dutch, *Identifying Victims of Human Trafficking*, 2.

<sup>79</sup> Rachel Austin and Amy Farrell, “Human Trafficking and the Media in the United States,” in *Oxford Research Encyclopedia of Criminology and Criminal Justice*, ed. Rachel Austin and Amy Farrell (Oxford University Press, 2017), 1, <https://doi.org/10.1093/acrefore/9780190264079.013.290>.

<sup>80</sup> Venla Roth, “Finland’s National Rapporteur on Trafficking in Human Beings: Mandate, Duties, and Practical Work,” in *The Palgrave International Handbook of Human Trafficking*, ed. John A. Winterdyk and Jackie Jones (Cham, Switzerland: Springer International Publishing, 2019), 3, [https://doi.org/10.1007/978-3-319-63192-9\\_124-1](https://doi.org/10.1007/978-3-319-63192-9_124-1).

<sup>81</sup> Zhang, *Looking for a Hidden Population*, 40.

reputable family with a shared language and cultural connection. This commonality of culture and language is highly important insofar as trafficking victims, once in the United States, become solely dependent on their traffickers, which makes the recruitment more successful, and interdiction and identification more challenging.<sup>82</sup> The shared cultural and linguistic background between a victim and traffickers not only traps victims and gives victims a sense of their only support structure, but above all, it creates a significant barrier for police officers to identify victims.

In broad terms, the clandestine nature of human trafficking makes it a high-profit, low-risk crime.<sup>83</sup> Not only do human trafficking activities grossly violate human rights and criminal justice and immigration laws, but they also harm the American economy, in part through the creation of illegal labor markets.<sup>84</sup> Per federal government estimates, human trafficking-related illegal labor markets generate annual profits of approximately \$9.5 billion, which in turn, supports other criminal activities, including money laundering, drug trafficking, and human smuggling.<sup>85</sup>

It can be challenging to put a monetary value on human exploitation, including the psychological damage and abuse of a trafficking victim, such as Claudia, who worked 15-hours shifts, seven days a week. Some studies have tried to capture the monetary value of human trafficking exploitation, as mentioned in the 2011 report by the Financial Action Task Force (FATF). This independent inter-government body promotes global financial policies designed to counter money laundering and terrorist financing.<sup>86</sup> Per their 2011 report, commercial sex trafficking yields profit ranging from 100 percent to 1,000 percent.

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<sup>82</sup> Amy Farrell, Jack McDevitt, and Stephanie Fahy, *Understanding and Improving Law Enforcement Responses to Human Trafficking* (Washington, DC: National Institute of Justice, 2008), 15, <https://www.ncjrs.gov/pdffiles1/nij/grants/222752.pdf>.

<sup>83</sup> Kauko Aromaa, “Trafficking in Human Beings: Uniform Definitions for Better Measuring and for Effective Counter-Measures,” in *Measuring Human Trafficking: Complexities and Pitfalls*, ed. Ernesto U. Savona and Sonia Stefanizzi (New York: Springer New York, 2007), 13–26, [https://doi.org/10.1007/0-387-68044-6\\_3](https://doi.org/10.1007/0-387-68044-6_3).

<sup>84</sup> Farrell, McDevitt, and Fahy, *Understanding and Improving Law Enforcement Responses*, 3.

<sup>85</sup> Farrell, McDevitt, and Fahy, 3.

<sup>86</sup> Financial Action Task Force, *Financial Flows from Human Trafficking* (Paris: Financial Action Task Force, 2018), 2, <https://www.fatf-gafi.org/media/fatf/content/images/Human-Trafficking-2018.pdf>.

In addition, each woman forced into sex trafficking generates about \$100,000 in profit annually. In child trafficking cases, the report states that each child makes a gain of about \$160,000 a year. According to the FATF 2018 report, an estimated profit from human trafficking worldwide is about \$150.2 billion per year and \$51.2 billion from labor trafficking illicit crimes.<sup>87</sup> Figure 2 illustrates the aforementioned annual illegal profit from sex trafficking of adult women and child victims. The purpose of showing the average yearly income of some of the top source countries for human trafficking is to highlight the economic factors contributing to the recruitment and exploitation of impoverished victims. For example, countries with low annual income, as shown in Figure 2, provide low socio-economic security and economic opportunities, which thus creates opportunities for traffickers to recruit and exploit vulnerable subjects.<sup>88</sup>

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<sup>87</sup> Financial Action Task Force, *Financial Flows from Human Trafficking* (Paris: Financial Action Task Force, 2018), 15, <https://www.fatf-gafi.org/media/fatf/content/images/Human-Trafficking-2018.pdf>.

<sup>88</sup> International Labour Organization and Walk Free Foundation, *Global Estimates of Modern Slavery*, 31.

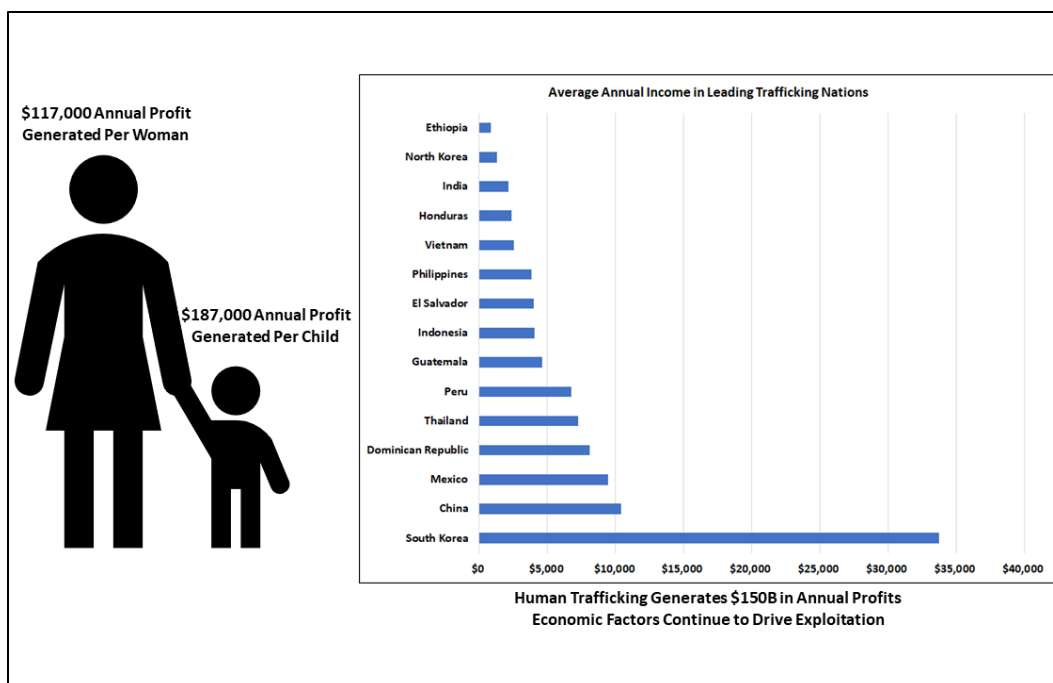


Figure 2. Financial Impact and Factors Contributing to Commercial Sex Trafficking.<sup>89</sup>

Based on the previous statistics, it can be concluded that human trafficking criminal activities are highly profitable. As traffickers engage in elaborate trafficking schemes to exploit vulnerable victims and operate in the shadow markets, a critical need exists for the timely identification of victims, police documentation of human trafficking crimes, collection, and sharing of comprehensive trafficking-related data among law enforcement agencies. To understand the scope of trafficking illicit operations and create evidence-based anti-trafficking strategies and policies, accurate and reliable data, as well as intelligence collection platforms, are necessary.

## B. FOREIGN-BORN HUMAN TRAFFICKING DATA COLLECTION INFRASTRUCTURE

This section presents a review of the current national human trafficking data collection platform, with a specific focus on foreign-born human trafficking. It also shows how government and non-government stakeholders collect, process, and analyze

<sup>89</sup> Source: Financial Action Task Force, *Financial Flows from Human Trafficking*, 15.

trafficking information. Federal criminal justice databases and data collected by national victim-based service agencies serve as primary sources. This section highlights some of the gaps in and barriers to collecting accurate data on human trafficking in the United States.

## **1. Quantifying Foreign-born Human Trafficking**

As previously established, the clandestine nature and operations of foreign-born human trafficking create challenges in victim identification and the documentation of criminal activities. Leading scholars Amy Farrell, Collen Owens, and Jack McDevitt, all from Northeastern University, and Sheldon Zhang, from San Diego University, have studied labor trafficking and victimization in the United States extensively and are responsible for illuminating this distinct problem.

In 2012, Zhang, a sociology professor at San Diego University, conducted a pioneering study of migrant laborers to assess the prevalence of labor trafficking in San Diego County. The study estimated that approximately 30 percent of about 800 studied undocumented Spanish-speaking immigrant workers were victims of labor trafficking exploitation. The study documented the analysis of specific occupations affected by trafficking. It concluded that exploitation was more prevalent among undocumented workers in construction and janitorial services than it was among workers in the agricultural sector.<sup>90</sup> Not only was this study the very first to examine what specific industries were involved and impacted by illicit trafficking, but it also served as a guiding point for police officers and other anti-trafficking agencies to engage proactively in crime prevention and anti-trafficking information sharing with advocacy groups who could then target those industry sectors.

Although this study's findings pertain to a specific region of the United States and a particular sample size, its significance lies in a detailed assessment of labor trafficking trends, particular types of labor services, and victim's demographics. Such empirical studies are extremely valuable insofar as they shed light on trafficking trends within a

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<sup>90</sup> Zhang, *Looking for a Hidden Population*, 81.

highly marginalized demographic of undocumented migrants. According to information gathered by the Hispanic Pew Research Center of the U.S. Migration Policy Institute, as of 2016, the United States had 12.3 million undocumented migrants, which makes Chang's finding of even greater significance.<sup>91</sup> The research has shown that undocumented migrants are highly vulnerable and susceptible to trafficking, exploitation, and abuse, which creates a large at-risk population.<sup>92</sup> Extrapolating from Chang's data, four million trafficked undocumented migrants possibly remain unaware that they are victims of crime and thus eligible for victims' assistance, protection, and immigration relief. Instead, they continue to suffer from abuse and exploitation.

Unfortunately, such comprehensive studies are exceeding rare because they are lengthy and cumbersome to conduct. Still, such studies point out many underlying issues related to the criminal justice systems' "capacity to identify and track victims."<sup>93</sup> In the context of victimization and exploitation of at-risk migrant labor, examining how the criminal justice system intervenes, documents, and tracks FBHT is necessary to analyze the whole system. A brief mention of the federal anti-trafficking legislation that has promoted such data platforms' development is necessary for understanding trafficking data collection platforms. Although this legislation offers a foundational framework to address issues related to civil rights, immigration, human rights, and gender issues, this research addresses only the narrow legislative scope relevant to trafficking-related data collection and policies.

## **2. Selected Legislation that Mandates Data Collection**

In 2000, the international community recognized human trafficking as a global problem and adopted the anti-trafficking legislation under the United Nations Protocols to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children,

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<sup>91</sup> "Profile of the Unauthorized Population: United States," Unauthorized Immigrant Population Profiles, accessed May 10, 2020, <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/US>.

<sup>92</sup> Ronald Weitzer and Sheldon X. Zhang, "New Directions in Research on Human Trafficking," *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (May 2014): 6–24, <https://doi.org/10.1177/0002716214521562>.

<sup>93</sup> Zhang, *Looking for a Hidden Population*, 5.

which supplements the U.N. Convention against Transnational Organized Crime, also known as the Palermo Protocol.<sup>94</sup> The Palermo protocol's significance is that it provided a foundational framework for the creation of the federal anti-trafficking legislation in the United States. In addition, the Palermo Protocol serves as an internationally binding document for inner-countries partnerships and joint efforts to combat transnational human trafficking.

Paralleling global efforts to combat human trafficking in 2000, the United States Congress adopted the TVPA. The TVPA is the first comprehensive federal legislation to develop a national definitional standard for severe forms of commercial sex and forced labor trafficking that includes the application of fraud, force, or coercion against innocent victims.<sup>95</sup> This legislation criminalized human trafficking and expanded federal criminal statutes to punish and prosecute traffickers. The renewal of TVPA in 2008 mandated the FBI to start collecting trafficking-related crime data from participating law enforcement agencies nationwide.<sup>96</sup> In addition to enhancing the justice system's approach to this issue, the TVPA provided comprehensive resources for trafficking victims to seek judicial relief and civil remedies, including crime victim restitution. Relevant to the issue of FBHT, the TVPA created special immigration relief programs, such as trafficking visas (T-visas) and continued presence (C.P.), to protect undocumented victims of trafficking and allow them to access justice and social services during a criminal investigation.<sup>97</sup> Creating such a comprehensive response offers legal protection and victim services while participating and assisting investigators during criminal investigations. It offers victims access to immigration relief and a pathway to legitimate status and protection from deportation.

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<sup>94</sup> Ana Isabel Perez Cepeda and Demelsa Benito Sanchez, *Trafficking in Human Beings: A Comparative Study of the International Legal Documents* (Groningen, Netherlands: Europa Law Publishing, 2014), 10, ProQuest Ebook Central.

<sup>95</sup> MaryAnne McReynold, "The Trafficking Victims Protection Act: Has the Legislation Fallen Short of Its Goals?," *Policy Perspectives* 15, no. 1 (2008): 33–56, <https://doi.org/10.4079/pp.v15i1.4152>.

<sup>96</sup> Lindsay Strauss, "Adult Domestic Trafficking and the William Wilberforce Trafficking Victims Protection Reauthorization Act," *Cornell Journal of Law and Public Policy* 19, no. 2, art. 6 (2010): 495–536, <http://scholarship.law.cornell.edu/cjlp/vol19/iss2/6>.

<sup>97</sup> Department of Justice, *National Strategy to Combat Human Trafficking* (Washington, DC: Department of Justice, 2017), 18, <https://www.justice.gov/humantrafficking/page/file/922791/download>.



In addition, the TVPA mandated the creation of a multifaceted response system and platform for inter-agency partnerships, collaboration, and information sharing as part of the national mission to combat and suppress human trafficking.<sup>98</sup> Prior to the TVPA enactment, agencies involved in anti-trafficking efforts operated in silos, which inhibited a collective response to serving victims and disrupted illicit trafficking activities. The merging of advocacy services with law enforcement practices created an environment and culture that advocates for victims' rights and promotes education and training surrounding trauma-informed investigations.<sup>99</sup> Such holistic and comprehensive response strategies increase victim identification and raise more awareness of this hidden problem.

In the context of trafficking data and intelligence analysis, it is fair to say that federal anti-trafficking legislation has a two-fold objective, the protection of victims and the prosecution of traffickers. In practice, this approach means that, at present, two primary sources for trafficking statistics are available, victim-centered data collected by victim service agencies and crime-centric data collected by law enforcement agencies.<sup>100</sup>

### **3. Different Numbers from Different Sources**

This research has identified that victim service agencies provide more information about the nature of trafficking crimes, victim demographics, and industries involved and impacted by trafficking. A federal victim service agency, the HHS, assists foreign-born trafficking victims in obtaining immigration relief as authorized by the federal anti-trafficking legislation. Undocumented victims of trafficking can petition for temporary legal status, which allows them to access social services and assistance while the criminal

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<sup>98</sup> Department of Justice, Department of Health and Human Services, and Department of Homeland Security, *Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, 2013–2017* (Washington, DC: Department of Justice, 2014), 84, <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/media/document/FederalHumanTraffickingStrategicPlan.pdf>.

<sup>99</sup> Kristen Wells, *The 2019 Trafficking Victims Protection Reauthorization Act: A Topical Summary and Analysis of Four Bills* (Washington, DC: Polaris Project, 2019), 7, <https://polarisproject.org/wp-content/uploads/2020/01/Polaris-TVPRA-2019-Analysis.pdf>.

<sup>100</sup> Amy Farrell and Jessica Reichert, "Using U.S. Law-Enforcement Data: Promise and Limits in Measuring Human Trafficking," *Journal of Human Trafficking* 3, no. 1 (2017): 40, <https://doi.org/10.1080/23322705.2017.1280324>.

investigation is conducted.<sup>101</sup> Figure 3 shows the number of adults and minor victims of trafficking who received immigration relief from the HHS from 2014 to 2018, according to which, for example, 412 adult FBHT trafficking victims were issued immigration relief (T-visa or C.P. status), and 466 minor FBHT victims received federal immigration protection in 2018.<sup>102</sup> It is important to highlight that while the HHS data is invaluable for learning about victims’ demographic typology, it is also limited in its nature, as it only reflects a number of identified victims who met the HHS screening threshold.

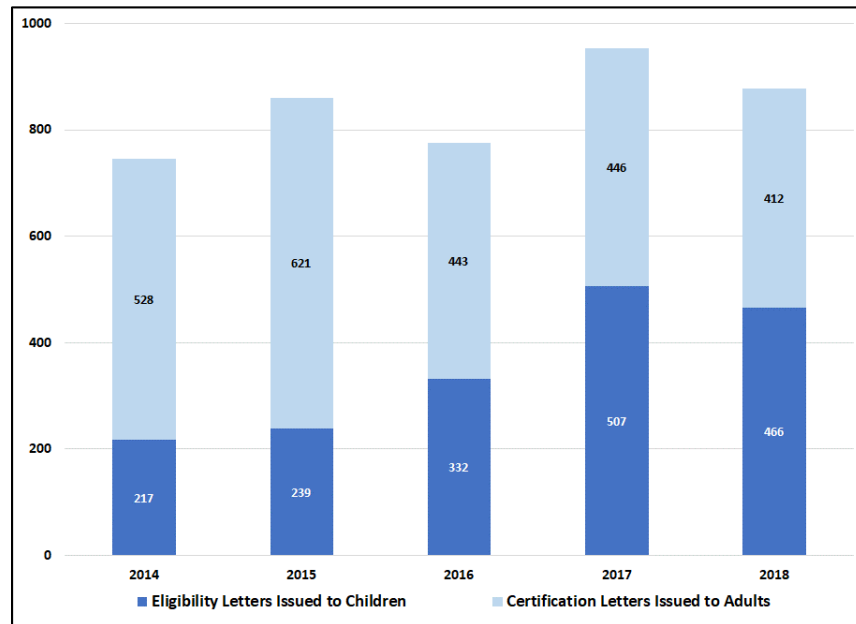


Figure 3. Compiled Data on the Number of Certification Letters Issued by the Health and Human Services to the Department of Justice from 2014–2018.<sup>103</sup>

<sup>101</sup> Administration for Children & Families, *Victim Assistance Programs—FY2019* (Washington, DC: Administration for Children & Families, 2020), 2, [https://www.acf.hhs.gov/sites/default/files/otip/otip\\_one\\_pager\\_victim\\_assistance\\_fy19.pdf](https://www.acf.hhs.gov/sites/default/files/otip/otip_one_pager_victim_assistance_fy19.pdf).

<sup>102</sup> “FY 2018 HHS Excerpts from the Attorney General’s Annual Report on U.S. Government Activities to Combat Trafficking,” Office on Trafficking in Persons, accessed May 12, 2020, <https://www.acf.hhs.gov/otip/resource/agfy18>.

<sup>103</sup> Adapted from Administration for Children & Families, *Certification for Adult Victims of Human Trafficking, FY 2001–2018: Data Fact Sheet* (Washington, DC: Department of Health and Human Services, 2019), 4, [https://www.acf.hhs.gov/sites/default/files/otip/fact\\_sheet\\_adult\\_certification\\_fy18\\_revision\\_508.pdf](https://www.acf.hhs.gov/sites/default/files/otip/fact_sheet_adult_certification_fy18_revision_508.pdf).

The relevance of the HHS data and reporting on victims' immigration assistance rests, in part, on the fact that it reflects the victims' nationalities. Per HHS reporting from 2018, 15 trafficking source countries comprised a total of 82 percent of the immigration relief certifications.<sup>104</sup> The HHS data indicates that most come to the United States from the following countries: the Philippines, Mexico, Thailand, India, Honduras, Vietnam, El Salvador, Guatemala, China, Peru, South Korea, Indonesia, Ethiopia, North Korea, and the Dominican Republic.<sup>105</sup> Figures 4 and 5 are compilations of the HHS data representing the immigration relief recipients' country of origin from 2013 to 2016, as data is not available for the subsequent years. The HHS immigration relief data analysis shows that the majority of minor trafficking victims originate from El Salvador, Guatemala, and Honduras. In contrast, the majority of adult trafficking victims originate from Mexico and the Philippines.

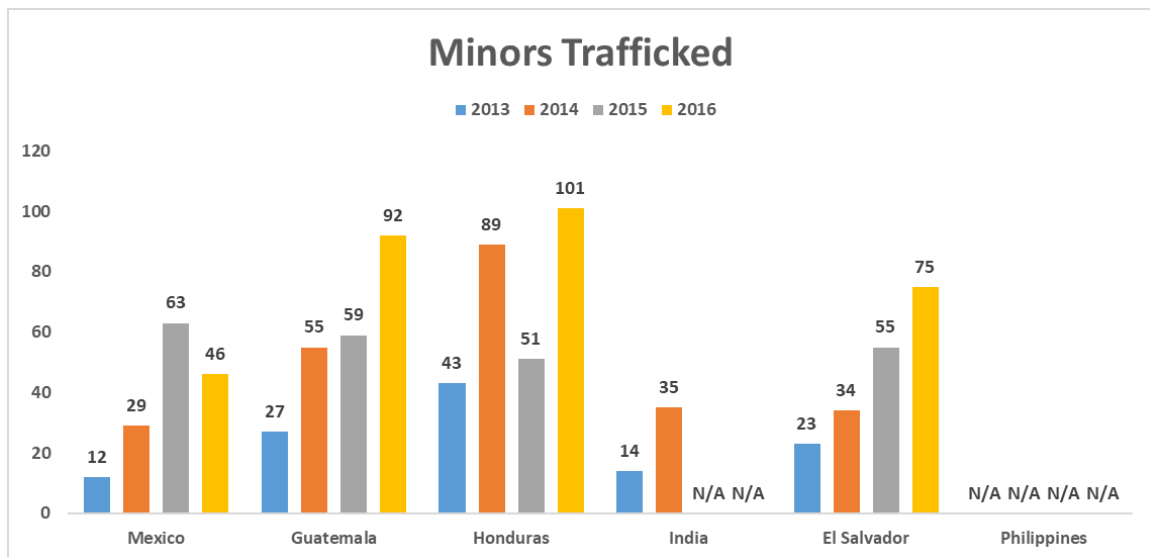


Figure 4. Top Source Countries for Trafficking of Minors according to the HHS.<sup>106</sup>

<sup>104</sup> Administration for Children & Families, 2.

<sup>105</sup> Administration for Children & Families, 2.

<sup>106</sup> Adapted from Administration for Children & Families, *Certification for Adult Victims of Human Trafficking, FY 2001–2007*, 4.

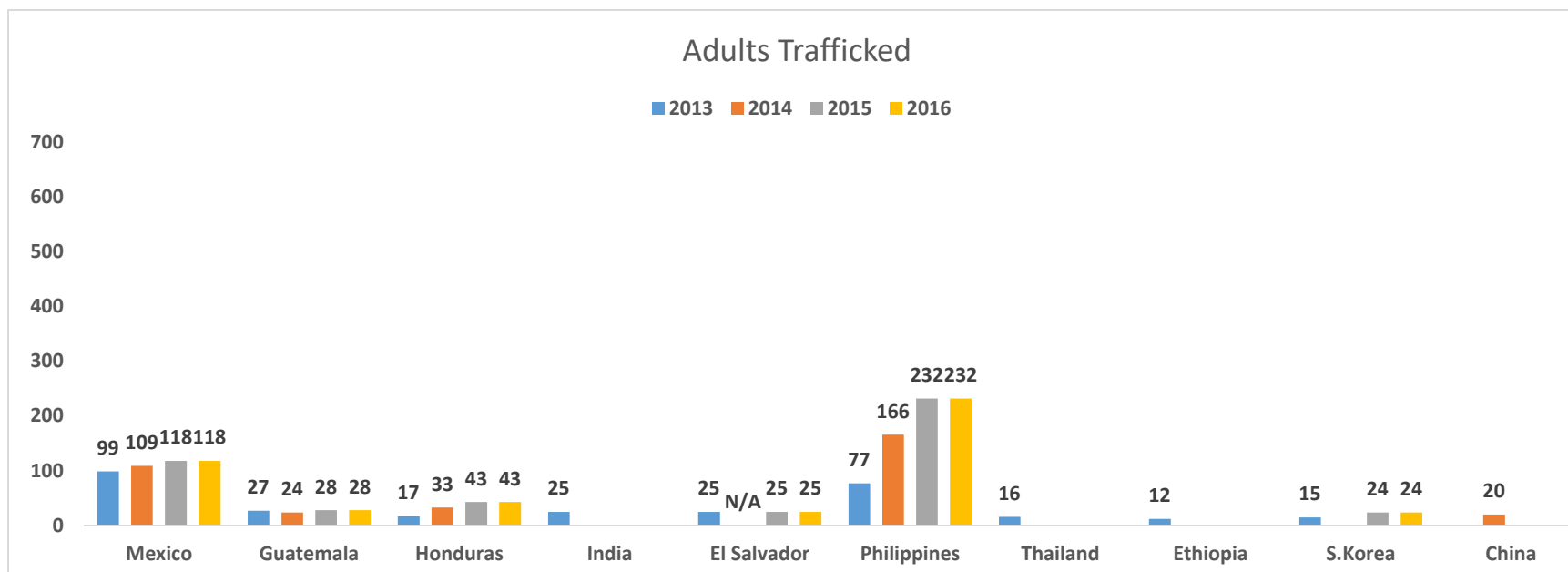


Figure 5. Top Source Countries for Trafficking of Adults according to the HHS.<sup>116</sup>

<sup>116</sup> Adapted from Administration for Children & Families, 2.

Having a general understanding of the top countries where trafficking victims come from is useful to law enforcement, the general public, and service providers to engage proactively with those immigrant communities and connect with culturally specific providers and agencies that serve those communities. Such partnerships are invaluable for improving victim identification and educating community partners on the issue of human trafficking.<sup>117</sup>

The HHS reporting on FBHT victims provides invaluable information on victim demographics (age and gender) and the nature of their exploitation. These reports inform the policymakers on which nationalities and source countries are more vulnerable and susceptible to FBHT. The breakdown of victim demographics helps both law enforcement and community-based advocacy groups in their efforts to connect and collaborate with culturally specific resources. In doing so, these entities better serve trafficking victims and focus more specifically on early prevention and education within those vulnerable communities. Above all, such reporting provides the necessary data for additional empirical-based research in the area of FBHT.

Another excellent source of FBHT data is the National Human Trafficking Hotline (NHTH). Trafficking victims and survivors, including community-based reporting parties, can contact the hotline either to report a possible trafficking activity or seek victim assistance and resources. According to its 2018 annual report, the NHTH recorded 10,949 trafficking cases in that year, of which 1,249 were labor and 7,859 sex trafficking, and 639 both labor and sex trafficking victims.<sup>118</sup> The report further identified specific labor industries in which victims were exploited, such as domestic work, traveling sale crews, agriculture, restaurant services, and retail stores.<sup>119</sup> Such a comprehensive analysis of

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<sup>117</sup> Department of Justice, Department of Health and Human Services, and Department of Homeland Security, *Federal Strategic Action Plan*, 27.

<sup>118</sup> Polaris, *2018 Statistics from the National Human Trafficking Hotline* (Washington, DC: Polaris Project, 2019), 2, [https://humantraffickinghotline.org/sites/default/files/Polaris\\_National\\_Hotline\\_2018\\_Statistics\\_Fact\\_Sheet.pdf](https://humantraffickinghotline.org/sites/default/files/Polaris_National_Hotline_2018_Statistics_Fact_Sheet.pdf).

<sup>119</sup> “Hotline Statistics,” National Human Trafficking Hotline, accessed May 9, 2020, <https://humantraffickinghotline.org/states>.

trafficking industries and profiles of victims' ages, nationalities, and gender are also broken down by state to illustrate state and region-specific trends and types of trafficking prevalent in those states. For example, as illustrated in Figures 6 and 7, NTHH reports that in Oregon in 2018, 135 cases were reported as human trafficking, of which 101 were sex trafficking, 15 labor trafficking, and 12 both labor and sex trafficking reports documented in Oregon. The record also shows that 308 trafficking victims and survivors were identified that year.<sup>120</sup> Yet, the Oregon Department of Justice Criminal Division (DOJ) has no record of any labor trafficking criminal activities reported to and by law enforcement.

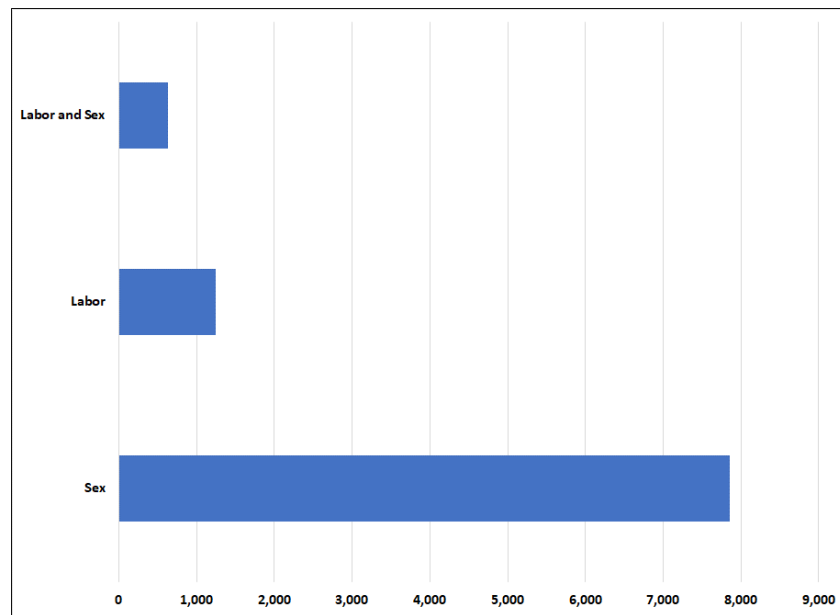


Figure 6. 2018 National Trafficking Statistics.<sup>121</sup>

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<sup>120</sup> "Oregon," Data USA, accessed August 1, 2020, <https://datausa.io/profile/geo/oregon>.

<sup>121</sup> Adapted from "National Human Trafficking Hotline," National Human Trafficking Hotline, accessed September 16, 2020, <https://humantraffickinghotline.org/es/node>.

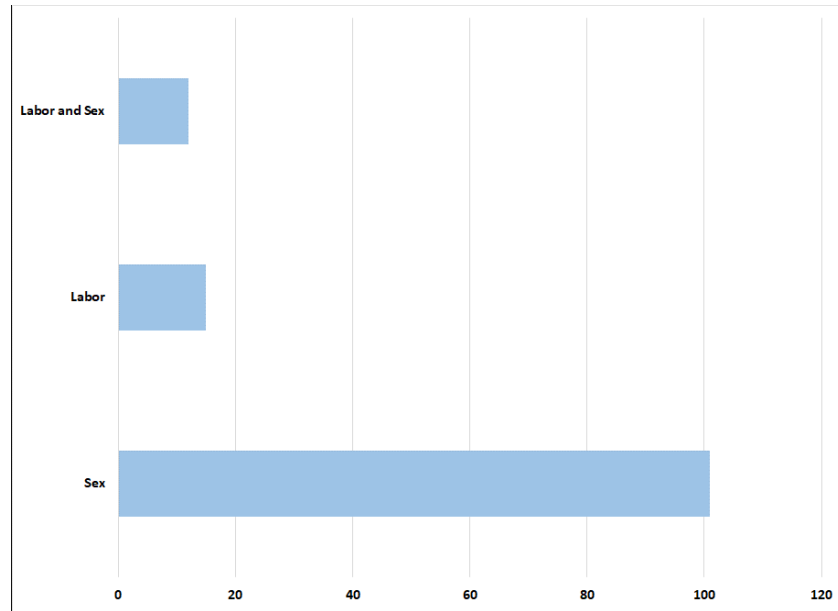


Figure 7. 2018 Oregon Trafficking Statistics.<sup>122</sup>

As some scholars pointed out, the NHTH data is not “linked to police data,” which means that it is unknown whether the local police authorities were notified or provided trafficking hotline tips or information.<sup>123</sup> While the hotline data does not include information about whether local police authorities were notified or referred to follow up and conduct preliminary investigations based on the hotline information, such data is beneficial for research, training, and educational purposes.<sup>124</sup>

Traditionally, due to the nature of their operational missions, federal law enforcement agencies, such as the FBI and HSI act primarily to disrupt illicit operations by conducting criminal investigations and apprehending suspects before submitting reports for consideration by U.S. Attorneys’ Offices, and in some cases, the DOJ. These agencies document trafficking-related data based on their involvement in criminal investigations and court-related proceedings, such as prosecutions, convictions, and asset forfeiture. A review of both FBI and HIS trafficking crime reporting reveals trafficking databases that

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<sup>122</sup> Adapted from “Oregon 2018 Data,” National Human Trafficking Hotline, accessed September 16, 2020, <https://humantraffickinghotline.org/es/state/oregon>.

<sup>123</sup> Farrell and Reichert, “Using U.S. Law-Enforcement Data,” 44.

<sup>124</sup> Farrell and Reichert, 44.

enumerate arrest and criminal investigation data, such as basic trafficker demographics, including country of origin and criminal history information.<sup>125</sup>

As stated earlier, the 2008 William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) mandated the FBI collect human trafficking crime data via the Uniform Crime Reporting (UCR) Program, a national data collection platform to which thousands of law enforcement agencies across the United States contribute information regarding criminal activity.<sup>126</sup> This information includes incident locations, crime classifications, and a victim and perpetrator data. That information is entered into the Nation Incident-Based Reporting System (NBIRS) and submitted to the UCR program. In 2008, the FBI added two new human trafficking crime categories, commercial-sex and involuntary servitude (forced labor) trafficking crimes.<sup>127</sup> Another category—the Supplementary Homicide Report—includes reports on human trafficking-related homicides. However, it was not until January 2013 that the UCR program started collecting human trafficking incident data as reported by law enforcement.<sup>128</sup>

Figure 8 illustrates the captured UCR trafficking data from 2013 to 2016. Despite a low number of reported incidents in the early years of the UCR implementation, the reported numbers significantly increased as more law enforcement agencies started collecting and tracking trafficking data.<sup>129</sup> Also, for this thesis’s purpose, the relevance of the UCR data, as presented in Figure 8, shows a disproportionate identification and reporting of sex trafficking incidents versus labor trafficking, an issue that this thesis discusses in Chapter V.

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<sup>125</sup> Federal Bureau of Investigation, “Human Trafficking, 2018,” 6.

<sup>126</sup> Strauss, “Adult Domestic Trafficking,” 532.

<sup>127</sup> Strauss, 524.

<sup>128</sup> Amy Farrell et al., *Capturing Human Trafficking Victimization through Crime Reporting* (Washington, DC: National Institute of Justice, 2019), 9, <https://www.ncjrs.gov/pdffiles1/nij/grants/252520.pdf>.

<sup>129</sup> Farrell et al., 11.



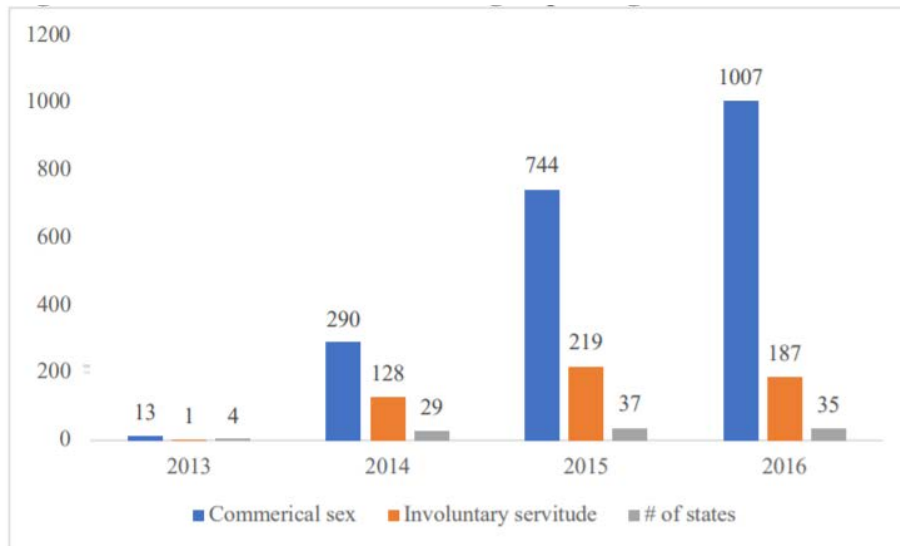


Figure 8. Trafficking Data Submitted to the Uniform Crime Reporting Database.<sup>130</sup>

#### 4. Problems and Inconsistencies with Data Reporting of FBHT

In its 2018 Annual Report on Human Trafficking Crimes, the FBI documented 1,389 human trafficking cases, of which 104 were labor trafficking cases.<sup>131</sup> According to this 2018 FBI report, Alabama, California, Idaho, Nebraska, New York, and North Carolina did not submit their human trafficking crime data.<sup>132</sup> California, one of the first states to enact state anti-trafficking legislation, has established several multi-agency human trafficking task forces and built comprehensive, collaborative systems across many sectors. However, because California did not integrate human trafficking offenses into its state reporting programs and did not contribute to the FBI data on human trafficking, the fruits of their efforts remain unknown.<sup>133</sup> Since not all states collect data, it appears that the UCR

<sup>130</sup> Source: Farrell et al., 11.

<sup>131</sup> Federal Bureau of Investigation, “Table 1: Human Trafficking: Offenses and Clearances by State, 2018,” in *2018 Crime in the United States* (Washington, DC: Federal Bureau of Investigation, 2019), <https://ucr.fbi.gov/crime-in-the-u.s/2018/crime-in-the-u.s.-2018/additional-data-collections/human-trafficking/table-1.xls>.

<sup>132</sup> Federal Bureau of Investigation.

<sup>133</sup> Farrell and Reichert, “Using U.S. Law-Enforcement Data,” 48.

program and trafficking data has its limitation in accurately assessing the scope of trafficking incidents.<sup>134</sup>

Although such reporting is essential, its content is relatively skeletal; it does not include information designed to determine traffickers' means of operation and possible involvement in other criminal activities. For example, if the FBI arrested a criminal group for trafficking crimes and contributed information to the UCR under current reporting guidelines, that information likely would not reveal if the subjects in the case were involved in or charged with other criminal offenses to show the scope of their operation. Such information could help teach law enforcement officers about the types of illegal activities in which traffickers are involved and about indicators of trafficking crimes.

To complicate the federal trafficking data platform further, the DOJ data reflects only criminal investigations that result in either prosecution or conviction in federal court. In 2018, the DOJ reported 526 trafficking convictions, of which 501 were sex trafficking cases, and 25 were labor trafficking cases. The 2018 conviction rate is still a significant improvement compared to 184 convictions in 2014.<sup>135</sup> The statistical evidence shows that significantly more arrests and convictions resulting from commercial sex trafficking cases than from labor trafficking cases indicate that law enforcement is more knowledgeable of and familiar with the investigation and prosecution of more conventional forms of trafficking, i.e., prostitution, than with labor trafficking.<sup>136</sup> With continuous efforts and investigative resources dedicated to sex trafficking crimes, the issue of labor trafficking crimes and an underlying lack of labor trafficking victims identification remains marginalized.<sup>137</sup>

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<sup>134</sup> Farrell and Reichert, 45.

<sup>135</sup> Department of State, *2019 Trafficking in Persons Report* (Washington, DC: Department of State, 2019), 489, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

<sup>136</sup> Amy Farrell and Rebecca Pfeffer, "Policing Human Trafficking: Cultural Blindness and Organizational Barriers," *The ANNALS of the American Academy of Political and Social Science* 653, no. 1 (2014): 48, <https://doi.org/10.1177/0002716213515835>.

<sup>137</sup> Colleen Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States* (Washington, DC: Urban Institute, Northeastern University, 2014), 2, <https://www.urban.org/sites/default/files/publication/33821/413249-Understanding-the-Organization-Operation-and-Victimization-Process-of-Labor-Trafficking-in-the-United-States.PDF>.

Taken at face value, the DOJ data represents an alarmingly low number of identified and disrupted activities compared to the generally adopted estimated number of trafficking victims. Although the DOJ data is reliable, it reflects a low percentage of criminal trafficking cases and those that did not meet a federal prosecutorial threshold.<sup>138</sup> This apparent discrepancy begs the question of what happens with human trafficking information, documented in police reports, that does not result in state or federal prosecutions? For example, if Claudia's traffickers had been convicted of federal forced labor crimes, a court record of criminal trafficking from Colombia would have been created, and the victim would have been granted restitution. Instead, since a local police agency conducted a victim interview but no criminal investigation, the information collected on Claudia's traffickers and illicit operations was never shared with other law enforcement and intelligence agencies. The police record of this particular trafficking incident was archived and effectively stored in information silos, isolated from other records concerning similar cases.

The federal criminal justice system does not track or collect data on state-level investigations, and prosecutions raise the critical question of how best to improve intelligence sharing and mitigate fragmented data collection practices.<sup>139</sup> Claudia's scenario illustrates how potentially valuable human trafficking intelligence about traffickers' patterns and methodologies can be lost. Some legal scholars interpret current federal criminal justice data as indicative of the complexity of human trafficking investigations, particularly FBHT, due to its transnational nature.<sup>140</sup> Information gathered by victim service agencies, including the trafficking reporting hotline, suggests that the prevalence of FBHT is much greater than the federal criminal justice system data indicates. Such data discrepancies, and other reporting on the scope of FBHT, are prompting research

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<sup>138</sup> U.S. Department of State, *2019 Trafficking in Persons Report* (Washington, DC: Department of State, 2019), 489, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

<sup>139</sup> Farrell and Reichert, "Using U.S. Law-Enforcement Data," 40.

<sup>140</sup> Amy Farrell et al., *Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases* (Washington, DC: Urban Institute, Northeastern University, 2012), 8, <https://www.urban.org/research/publication/identifying-challenges-improve-investigation-and-prosecution-state-and-local-human-trafficking-cases>.

into partnerships between law enforcement agencies and other entities involved in combating FBHT.

### **C. LOCAL AND STATE LAW ENFORCEMENT AND FOREIGN-BORN HUMAN TRAFFICKING—A WINDOW OF OPPORTUNITY**

In 2000, Congress enacted anti-trafficking legislation and created a robust infrastructure. Specific advocacy groups built awareness through narratives concerning the commercial sex trafficking of young women and children by domestic and transnational criminal groups. Federal law enforcement agencies, including the FBI, Immigration and Customs Enforcement (ICE), and the HSI, responded by targeting criminal networks involved in sex trafficking and conducting complex, multijurisdictional investigations, often concerning an international nexus.<sup>141</sup> One of the most successful multijurisdictional partnerships is creating the national Innocence Lost National Initiative (ILNI), the FBI task force addressing commercial sex trafficking of domestic victims in 2003.<sup>142</sup> Annually, in tandem with local and state law enforcement and victim service agencies, the FBI carries out a nationwide mission targeting traffickers who exploit minors for commercial sex. Since 2003, the ILNI identified and rescued over 6,600 minor victims of trafficking and convicted over 2,750 traffickers.<sup>143</sup>

Primarily, as a result of high-profile anti-sex trafficking investigations, media portrayals of human trafficking tend to emphasize commercial sex trafficking while ignoring the issue of foreign-born labor trafficking.<sup>144</sup> Even the few high-profile labor trafficking cases of domestic servitude involving members of the diplomatic corps that had raised awareness on this issue were typically a result of federal criminal investigations. Due to the complex nature of labor trafficking operations that often span across jurisdictions, federal law enforcement agencies are typically the primary investigative

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<sup>141</sup> Laczko and Gramegna, “Developing Better Indicators of Human Trafficking,” 179.

<sup>142</sup> “Innocence Lost National Initiative and Operation Independence Day 2019,” FBI Washington, August 6, 2019, <https://www.fbi.gov/contact-us/field-offices/washingtondc/news/press-releases/innocence-lost-national-initiative-and-operation-independence-day-2019>.

<sup>143</sup> FBI Washington.

<sup>144</sup> Laczko and Gramegna, “Developing Better Indicators of Human Trafficking,” 181.

agencies. For these reasons, foreign-born labor anti-trafficking enforcement has rarely been a point of focus for local law enforcement agencies.<sup>145</sup>

In 2018, the U.S. State Department released its annual Trafficking in Persons (TIP) report, which acknowledged that human trafficking is both a global problem and a domestic issue in the United States. The TIP report announced a shift in the country's approach to anti-trafficking, including the reallocation of resources to support local communities' efforts to combat human trafficking and the tasking of local law enforcement agencies to combat human trafficking within their respective jurisdictions.<sup>146</sup> Thus, the issue of labor trafficking and FBHT was no longer exclusive to the federal criminal justice system, similar to what happened after 9–11, when the DHS recognized the role frontline police officers play in the collective effort to protect the homeland, mitigate threats to public safety, and collaborate with federal law enforcement and intelligence services counterparts. FBHT presents not only a border issue but also a national security threat and a growing domestic criminal problem. As such, it is both appropriate and necessary to engage local and state LEAs in this effort.

The aforementioned DOJ court data illustrates a significant imbalance in prosecution and conviction of labor trafficking subjects as compared to sex trafficking subjects. As scholars have pointed out, FBHT is exceptionally complex in nature due to the hidden aspects of illicit operations and the highly transitory nature of these crimes. In the face of such complexities, federal law enforcement investigators could not possibly respond to every local and state report on suspected FBHT.<sup>147</sup> As each state enacted its own anti-trafficking legislation based on the national TVPA framework, local and state law enforcement became more involved in, primarily, commercial sex trafficking crime interdiction and investigations.<sup>148</sup>

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<sup>145</sup> Farrell and Pfeffer, "Policing Human Trafficking," 57.

<sup>146</sup> Department of State, *2018 Trafficking in Persons Report*, 3.

<sup>147</sup> Farrell et al., *Identifying Challenges*, 11.

<sup>148</sup> Farrell, Pfeffer, and Bright, "Police Perceptions of Human Trafficking," 316.

According to the *Federal Strategic Plan Action Plan on Services for Victims of Human Trafficking in the United States: 2013–2017*, published by the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons, local and state law enforcement are a viable stakeholder in addressing human trafficking.<sup>149</sup> Local LEAs are more likely than their federal counterparts to encounter human trafficking and identify human trafficking victims while responding to calls for services and simply engaging with the local community. Thus, it is not surprising that the DOJ:

publicly tasked the over 17,000 municipal, county and state law enforcement agencies responsible for carrying out routine policing functions of local communities to be the eyes and ears for recognizing, uncovering and responding to circumstances that may appear to be a routine street crime, but may ultimately turn out to be a human trafficking case.<sup>150</sup>

Emerging research on labor trafficking indicates that one of the contributing factors to underreporting of this crime, as reflected in federal criminal justice data, is the chronic and systemic deficiencies in identifying labor trafficking victims by police officers and social service and health care providers.<sup>151</sup> This thesis examines the issues of victim identification and documentation of FBHT incidents as related to data collection and analysis.

Traditionally, local law enforcement agencies have addressed domestic sex trafficking, formerly classified by crime statutes as prostitution-related crimes, through investigations involving street missions targeting sex trafficking establishments. Many police departments across the country have established special sex trafficking units. Likewise, such departments have afforded their officers more training relevant to sex trafficking investigations, including victim identification, conducting trauma-informed interviews, and collaborating with victim service agencies and advocates. Today, generally speaking, police officers are more knowledgeable about commercial sex trafficking

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<sup>149</sup> Department of Justice, Department of Health and Human Services, and Department of Homeland Security, *Federal Strategic Action Plan*, 2.

<sup>150</sup> Farrell et al., *Identifying Challenges*, 3.

<sup>151</sup> Farrell, Pfeffer, and Bright, “Police Perceptions of Human Trafficking,” 317.

issues—investigations, statutes, and victim identification—than ever before.<sup>152</sup> However, police agencies lack such a response infrastructure when it comes to addressing the labor trafficking crimes. Research and evidence show that law enforcement agencies nationally remain rather unaware of the nature of labor trafficking and do not prioritize addressing labor trafficking crimes.<sup>153</sup>

However, local and state law enforcement face many barriers to identifying and investigating FBHT crimes. Scholarly research has shown that local police officers often misidentify victims of FBHT, particularly victims of labor trafficking. As noted previously, foreign-born victims rarely self-identify or seek police assistance because of various cultural and linguistic barriers. Many FBHT victims are highly vulnerable due to their illegal immigration status, which traffickers exploit as leverage against them.<sup>154</sup> Consequently, when police officers encounter potential trafficking victims, they may interpret the victims' behavior as deceptive. Alternatively, victims might deny that they are in an exploitative situation because of fear and threats of violence against themselves or their families back home.

## **1. The Case of Henry: Labor Trafficking**

The following Oregon-based labor trafficking case serves to illustrate a typical law enforcement-labor trafficking victim interaction through an interview conducted by the PPB with a trafficking victim whose real name remains confidential on September 4, 2017.<sup>155</sup>

In 2013, at the age of 17, Henry left his poverty-stricken family in Honduras and came to Oregon to live with his uncle, who promised him a job and an avenue to earn income and support his parents. After several weeks of travel, Henry crossed the border

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<sup>152</sup> Clawson et al., *Prosecuting Human Trafficking Cases*, 20.

<sup>153</sup> Farrell and Pfeffer, "Policing Human Trafficking," 58.

<sup>154</sup> Johnny E. McGaha and Amanda Evans, "Where Are the Victims? The Credibility Gap in Human Trafficking Research," *Intercultural Human Rights Law Review* 4 (2009): 239–66, <https://www.stu.edu/Portals/law/docs/human-rights/ihrlr/volumes/4/239-266-JohnnyMcGahaandAmandaEvans-WhereAretheVictims-TheCredibilityGapinHumanTraffickingResearchHumanTraffickingGlobalandLocalPerspectives.pdf>.

<sup>155</sup> Portland Police Records. 2017.

illegally and arrived in the small city of Gresham. There, Henry began to live in a two-bedroom apartment with his uncle and several other young men from Honduras.

Two weeks after his arrival, his uncle told Henry that he needed to start working by delivering packages to specific locations. When Henry realized that his uncle was a drug dealer, he refused to deliver drugs. In the course of the next several weeks, the uncle threatened Henry with a gun, physically assaulted him, and told Henry he would be deported if he failed to comply with the uncle's demands. Additionally, the uncle employed the threat of using black magic against Henry's family, mindful that such a threat played on established cultural beliefs and would be a powerful psychological tool. Moreover, the uncle ordered Henry to pay for his food and shelter.

When local police officers encountered Henry in an area of the city known for vice-related criminal activity, they arrested him on drug-related charges and booked him into jail. Upon his release from jail, Henry was instructed by his uncle to resume his delivery duties to make up for the lost time and drug-related income. In a legal sense, the situation in which Henry found himself was a form of debt bondage.

In 2018, Henry met with a police investigator and disclosed his story for the first time. Henry stated that he did not speak any English at the time and was afraid of his uncle, but also very afraid to talk to police officers. Henry said that he feared officers would not believe him and would only see him as "yet another brown illegal and drug dealer." Henry spent the next several years classified as a convicted felon pending deportation. It was not until he met an immigration attorney specializing in human trafficking-related cases that he learned he was a victim of forced labor and had rights to justice and protection.

Henry's story is a perfect example of missed opportunities for police officers to identify and rescue a trafficking victim. The story also highlights that Henry's initial encounter with police officers took place 13 years after Congress enacted the TVPA in 2000. It is important to highlight that in 2007, Oregon legislators defined the crimes of labor trafficking in two categories:

- Trafficking in persons in the first degree for the purpose of involuntary servitude ORS. 163.264) is defined as a situation in which "the person



knowingly and without lawful authority forces or attempts to force the other person to engage in services by a: causing or threatening to cause the death of or serious physical injury to a person, or b) physically restraining or threatening to physically restrain a person.”<sup>156</sup> It is a Class B felony, and a trafficker, if convicted, can face up to 10 years in prison.<sup>157</sup>

- Trafficking in persons in the second degree for the purpose of involuntary servitude (ORS 163.263) is defined as occurring when “a person commits the crime of subjecting another person to involuntary servitude in the second degree if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by: a) abusing or threatening to abuse the law or legal process, b) destroying, concealing, removing, confiscating or possessing an actual purported passport or immigration document or another actual or purported government identification document of a person, c) threatening to report a person to government agency for the purpose of arrest or deportation, d) threatening to collect an unlawful debt, or e) instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging food, and clothing.”<sup>158</sup> It is a Class C felony, and a trafficker, if convicted, can serve up to five years in prison.<sup>159</sup>

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<sup>156</sup> “Subjecting another Person to Involuntary Servitude in the First Degree,” ORS 163.264 Oregon Revised Statutes § (2020), <https://www.oregonlaws.org/ors/163.264>.

<sup>157</sup> Oregon Advisory Committee, *Human Trafficking in Oregon: A Report of the Oregon Advisory Committee to the U.S. Commission on Civil Rights* (Los Angeles: U.S. Commission on Civil Rights, Regional Programs Coordination Unit, 2018), 11, <https://www.usccr.gov/pubs/2019/02-11-Human-Trafficking-Oregon.pdf>.

<sup>158</sup> “Subjecting Another Person to Involuntary Servitude in the Second Degree,” ORS 163.263 Oregon Revised Statutes § (2020), <https://www.oregonlaws.org/ors/163.263>.

<sup>159</sup> “Trafficking in Persons,” ORS 163.266 Oregon Revised Statutes § (2020), <https://www.oregonlaws.org/ors/163.266>.

Yet, even six years after the enactment of Oregon’s anti-trafficking legislation, police officers did not apply any of the trafficking-related penal codes and failed to identify the crime elements of human trafficking.

Furthermore, investigators failed to recognize an opportunity to collect information and intelligence on the uncle’s drug operations, criminal activity that involved the exploitation of minor victims. Due to their training in specific areas of criminal law (e.g., drug offenses), police officers easily identify elements of specific crimes. Still, they historically have been less successful in connecting such activities with crimes less familiar to them. Henry’s story highlights how a police officer’s encounters with possible trafficking victims can, absent proper training, result in opportunities to disrupt trafficking operations.

## **2. Distinguishing Victimization from Criminal Activities**

Survivor testimonials and scholarly research have shown that many trafficking victims commit criminal offenses as part of their captivity and traffickers’ direction. It is not uncommon for victims to engage in misdemeanor crimes, including but not limited to shoplifting, selling stolen goods, or engaging in commercial sex acts.<sup>160</sup> When trafficking victims are involved in criminal acts, it makes their identification even more challenging because these acts mask their exploitation. In turn, these factors lead to victim stereotyping and foster the development of biases within the criminal justice system.<sup>161</sup> Such biases manifest themselves in many ways, by portraying FHBT victims as “criminals” and “illegals” because of their immigration status.<sup>162</sup>

Amy Farrell labeled those issues as “cultural blinders” that act as roadblocks to accurate and timely identification that, in turn, can lead to criminal investigations.<sup>163</sup> In

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<sup>160</sup> Jennifer Gentile Long, “Enhancing Prosecutions of Human Trafficking and Related Violence against Sexually Exploited Women,” *Strategies: The Prosecutors’ Newsletter on Violence against Women*, no. 6 (May 2012): 4, <https://aequitasresource.org/wp-content/uploads/2018/09/Enhancing-Prosecutions-of-Human-Trafficking.pdf>.

<sup>161</sup> McGaha and Evans, “Where Are the Victims?,” 245.

<sup>162</sup> Farrell and Pfeffer, “Policing Human Trafficking,” 48.

<sup>163</sup> Farrell and Pfeffer, 48.

2019, the National Institute of Justice funded a study to examine challenges faced by local and state criminal justice agencies in identifying human trafficking.<sup>164</sup> Farrell and Pfeffer examined court data from 12 U.S. counties and reviewed 140 closed trafficking investigations to identify commonalities in police responses to human trafficking crimes. Their findings show that police officers tend to apply traditional investigative techniques and interview styles when investigating commercial sex trafficking cases, are unsure how to interpret elements of trafficking crimes legally, such as coercion, and often apply state criminal statutes with which they are familiar, such as domestic violence or sexual assault charges.<sup>165</sup> The following trafficking case study illustrates a scenario of police misidentification of a trafficking victim due to their lack of training and general awareness about human trafficking crimes, as demonstrated in an investigation conducted by the PPB with a trafficking victim whose real name remains confidential in April 2016.<sup>166</sup>

### **3. The Story of Maya—A Missed Opportunity for Police Officers**

Police officers' practice in using traditional charging criminal instruments best illustrates Maya's story. In 2016, Maya reported her trafficking experience to a Portland police investigator. Maya left her home in Kazakhstan to marry a local Russian man. Upon her arrival in Portland, the husband forced her to engage in commercial sex online and threatened to hurt her minor children if she refused to do so. On one occasion, he assaulted her, and Maya called the police. Police responded and arrested the husband for domestic violence-related charges. They did not recognize trafficking red flags, and since Maya did not speak English, was ashamed, and felt too guilty to disclose her story, the case was never investigated or documented as an FBHT case. Maya's story shows how easy it is to overlook human trafficking signs and not pursue the investigation by asking additional questions.

The National Institute of Justice study also found out that a lack of labor trafficking-related intelligence deprives police agencies of insights into illicit labor camps and trends

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<sup>164</sup> Farrell and Pfeffer, 47.

<sup>165</sup> Farrell and Pfeffer, 55.

<sup>166</sup> Portland Police Records. 2016.

occurring in their jurisdictions.<sup>167</sup> The study concluded with an analysis that local and state police and prosecutors had limited knowledge and expertise in investigating and prosecuting labor trafficking cases. In most instances, they would defer labor investigations to federal counterparts.<sup>168</sup> Presently, labor trafficking task forces are not funded by states. However, in 2011 the DOJ Civil Rights Division's Human Trafficking Prosecution Unit created six Anti-Trafficking Coordination Teams (ACTeams) to address both sex and labor trafficking especially. These six ACTeams human trafficking task forces address all forms of trafficking, including labor trafficking. The following districts have ACTeams established: Portland, Maine, Cleveland, Minneapolis, Newark, New Jersey, Portland, Oregon, and Sacramento, California.<sup>169</sup> The establishment of these federally funded taskforces appears to be a significant step in acknowledging a need for addressing labor trafficking cases and collaborating with state-based stakeholders and partners.

#### **D. CONCLUSION**

This chapter illuminated socio-cultural and linguistic barriers preventing victims from reporting abuse and exploitation through testimonials of Oregon foreign-born human trafficking survivors about their trafficking experiences and interaction with local police agencies. It showed how local law enforcement agencies misidentify trafficking cases in their jurisdictions due to a lack of skills and training and the absence of policies and protocols, leading to inadequate documentation and data collection. This chapter has also shown that nationally trafficking data collection and sharing are fragmented and lack coordination and accuracy. A significant statistical gap exists between trafficking data provided by anti-trafficking agencies and those published by federal criminal justice entities, which reflects far lower levels of trafficking crimes. It has shown the challenges inherent in collecting and analyzing FBHT data through traditional criminal databases, partly due to the clandestine nature of FBHT operations.

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<sup>167</sup> Farrell and Pfeffer, 57.

<sup>168</sup> Farrell and Pfeffer, 58.

<sup>169</sup> Department of Justice, "Special Initiatives," November 18, 2015, <https://www.justice.gov/humantrafficking/special-initiatives>.

Since FBHT occurs in local communities throughout the United States, the federal government has recognized the value of local and state law enforcement agencies to identify and disrupt FBHT. This chapter has pointed out deficiencies in data collection and law enforcement's ability to identify trafficking victims and crimes. The following chapter examines potential opportunities to improve the institutional understanding of human trafficking and victim identification efforts by amending the existing statewide mandatory reporting policies for domestic violence and child abuse issues.

### **III. MANDATORY REPORTING: OVERVIEW OF DOMESTIC VIOLENCE AND CHILD ABUSE**

This chapter examines how legislative reforms and the enactment of mandatory reporting policies for domestic violence and child abuse and neglect incidents influenced societal, and in particular, law enforcement response to combating these crimes. This chapter consists of two main sections: a review of domestic violence mandatory reporting and a review of child abuse and neglect mandatory reporting. The format for these two-section case studies consists of the four following components: examination of the scope and nature of these crimes, review of the data collection and sharing infrastructure, and lastly, an examination of law enforcement's response to combating domestic violence and child abuse. By examining Oregon's enactment of mandatory reporting legislation, and the PPB's systemic policy reforms in the arena of victim identification, the documentation of these incidents, and the development of multidisciplinary teams, this chapter highlights how comprehensive and accurate domestic violence and child abuse data collection and sharing infrastructure may provide a model for establishing mandatory reporting requirements for human trafficking cases.

#### **A. AN OVERVIEW OF DOMESTIC VIOLENCE MANDATORY REPORTING**

This section focuses on the criminal justice response to domestic violence and criminal incidents while showing the historical and societal changes and cultural attitudes toward family violence. This section offers insights into the general characteristics of the nature and scope of domestic violence and law enforcement organizational and structural reforms and the development of legislative anti-domestic violence policies. This section illustrates the impact of legislative changes in developing and integrating domestic violence data collection and sharing platforms.

##### **1. The Scope and Nature of Domestic Violence in the United States**

The contemporary scope of intimate partner violence in the United States is alarmingly concerning and prevalent. According to the National Intimate Partner and

Sexual Violence Survey, “1 in 4 adult women (23%) and approximately 1 in 7 men (14%) in the United States report having experienced severe physical violence (e.g., being kicked, beaten, choked, or burned on purpose, having a weapon used against them, etc.) from an intimate partner in their lifetime.”<sup>170</sup>

Per the Centers for Disease Control and Prevention (CDC), domestic violence is defined as “physical violence, sexual violence, stalking, and psychological aggression (including coercive tactics) by a current or former intimate partner (i.e., spouse, boyfriend/girlfriend, dating partner, or ongoing sexual partners).”<sup>171</sup> For the purposes of this thesis, however, domestic violence is examined in the context of violence perpetrated against female victims, as available evidence indicates that women are more likely than men to be victims of domestic violence.<sup>172</sup> Although various terminology is employed to describe intimate partner violence, including domestic violence (DV), domestic abuse, spousal violence, and dating violence, this research uses two terms more or less interchangeably, domestic violence and intimate partner violence (IPV).<sup>173</sup>

To understand how domestic violence in the United States was, for many years, both tacitly accepted and widely ignored requires examining the issue within relevant socio-cultural and historical frameworks. Among the challenges facing law enforcement and other stakeholders in present-day United States is a long history of complex gender and power dynamics and the historical, social construct of the marital relationship.<sup>174</sup> As a consequence of these dynamics, which are deeply rooted in American society, a traditional and widely held view of domestic violence has been strictly a family matter, one to be

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<sup>170</sup> Phyllis Holditch Niolon et al., *Preventing Intimate Partner Violence across the Lifespan: A Technical Package of Programs, Policies, and Practices* (Atlanta, GA: Centers for Disease Control and Prevention, 2017), 7, <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>.

<sup>171</sup> Niolon et al., 4.

<sup>172</sup> Monica N. Modi, Sheallah Palmer, and Alicia Armstrong, “The Role of Violence against Women Act in Addressing Intimate Partner Violence: A Public Health Issue,” *Journal of Women’s Health* 23, no. 3 (2014): 253–59, <https://doi.org/10.1089/jwh.2013.4387>.

<sup>173</sup> Natalia Musielak, “Exploring Dimensions of Vulnerability in Victims of Domestic Homicide” (master’s thesis, University of Western Ontario, 2008), 1, <https://ir.lib.uwo.ca/etd/5239>.

<sup>174</sup> Annette Jolin, “Domestic Violence Legislation: An Impact Assessment,” *Journal of Police Science & Administration* 11, no. 4 (1983): 451–56.

handled in private and without outside interference. This view contributed to the perpetuation of various social, legal, and gender disparities relative to domestic violence. Furthermore, it created significant barriers to identifying and protecting abuse victims and holding perpetrators of such abuse accountable for their actions.<sup>175</sup> Understanding these historical and cultural frameworks and dynamics, reporting barriers is relevant for the examination of law enforcement attitudes and practices to responding to crimes of domestic abuse.

Similar to human trafficking crimes, as discussed in the previous chapter, domestic violence occurs in all segments of society, involving victims and abusers from various socio-economic, ethnic, cultural, and linguistic backgrounds. Research shows that the complex and hidden nature of domestic violence crimes stems in part from intricate interpersonal family dynamics, including emotional bonds and financial dependency between domestic partners, spouses, and family members.<sup>176</sup> As evidence shows, domestic abusers, who are, in many cases, persons trusted by their victims, often subject them to physical, sexual, emotional, and economic abuse, as well as control over a prolonged period.<sup>177</sup> Researchers point out that, unlike other crimes, e.g., robbery, domestic violence crimes often consist of a series of acts that vary in intensity and frequency. Taking into account that domestic violence is a “continual state of victimization,” it creates complex barriers for victims to seek help and safety.<sup>178</sup> Scholars on trauma and patterns of abuse have proven that such cycles of control and violence lead to further isolation of victims

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<sup>175</sup> Jolin, 451.

<sup>176</sup> Annette Jolin, “Domestic Violence in the United States of America: A Reform Success,” in *Criminal Justice in the United States and Germany: Strafrecht in Den Vereinigten Staaten Und Deutschland*, ed. Manfred Berg, Stefan Kapsch, and Franz Streng (Heidelberg, Germany: Universitaetsverlag Heidelberg, 2006), 73–86.

<sup>177</sup> Erin L. Han, “Mandatory Arrest and No-Drop Policies: Victim Empowerment in Domestic Violence Cases Note,” *Boston College Third World Law Journal* 23, no. 1 (2003): 164, <http://lawdigitalcommons.bc.edu/twlj/vol23/iss1/5>.

<sup>178</sup> Lisa Walbolt Wagner, *Domestic Violence and Sexual Assault Data Resource Center* (Washington, DC: Justice Research and Statistics Association, 2008), 28, <https://www.ncjrs.gov/pdffiles1/nij/grants/221533.pdf>.



from their support networks that thus created additional barriers for law enforcement to identify and assist victims.<sup>179</sup>

One frequent question is why victims do not report abuse. They hesitate to report their abuse to police for many reasons. Evidence shows many domestic violence victims fear retribution from the abusers if they call the police. Moreover, abusers often threaten to kill the victims if they attempt to remove themselves from the situation.<sup>180</sup> Research shows that domestic violence fatalities are most likely to occur shortly either before or soon after the abused victims attempt to flee from their abusers.<sup>181</sup> Such research indicates victims' critical safety concerns, thus requiring that law enrolment and victim advocacy agencies work in tandem to address victim safety and hold abusers accountable.

In addition, research shows that immigrant victims of domestic abuse face additional challenges in seeking help. Many domestic violence immigrant victims fear law enforcement because of cultural and societal norms and views on domestic violence in their countries of origin; many victims have stated that the police and justice system ignores the plights of abused women.<sup>182</sup> Likewise, many cultures continue to either accept or minimize domestic violence victimization.<sup>183</sup> In tight-knit immigrant communities, it can be very challenging for victims to report their abusers as they may risk losing an already limited social network.<sup>184</sup> Immigrant victims fear that they will be arrested and deported by reporting the abuse because of their undocumented status.<sup>185</sup> Edna Erez, a renowned scholar on immigration and domestic violence, contends that abusers often use the

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<sup>179</sup> Han, "Mandatory Arrest and No-Drop Policies," 165.

<sup>180</sup> Edna Erez, "Domestic Violence and the Criminal Justice System: An Overview," *Online Journal of Issues in Nursing* 7, no. 1 (2002), <https://ojin.nursingworld.org/MainMenuCategories/ANAMarketplace/ANAPeriodicals/OJIN/TableofContents/Volume72002/No1Jan2002/DomesticViolenceandCriminalJustice.aspx>.

<sup>181</sup> Erez.

<sup>182</sup> Erez, Adelman, and Gregory, "Intersections of Immigration and Domestic Violence," 50.

<sup>183</sup> Erez, Adelman, and Gregory, 47.

<sup>184</sup> Musielak, "Exploring Dimensions of Vulnerability in Victims of Domestic Homicide," 10.

<sup>185</sup> Edna Erez, "Migration/Immigration, Domestic Violence and the Justice System," *International Journal of Comparative and Applied Criminal Justice* 26, no. 2 (September 2002): 282, <https://doi.org/10.1080/01924036.2002.9678692>.

undocumented status as leverage and employ coercion and threats to prevent the victims from running away or filing a police report.<sup>186</sup> Language issues, the lack of understanding the basic rights afforded to U.S. residents, and a lack of familiarity with the U.S. justice system all represent significant additional barriers between immigrant victims and access to assistance and resources intended for their use.<sup>187</sup> A national survey of law enforcement officials confirm the results of these barriers, “Immigrants report crime less often than other victims, and domestic violence was the crime least often reported.”<sup>188</sup> The illustration of these complex socio-economic, cultural, and linguistic barriers affecting battered immigrant victims is invaluable to law enforcement and service providers’ awareness and education when serving immigrant victims.

Scholarly research, medical community initiatives, and efforts undertaken by victim advocacy groups have led to increased public awareness of the harm inflicted by domestic violence: post-traumatic stress, physical and mental suffering, bodily injuries, substance abuse, suicide attempts, and depression.<sup>189</sup> According to the Institute for Women’s Policy Research, in 2017, the estimated economic cost—as measured by health care cost and productivity losses—of intimate partner violence and sexual violence was approximately \$9.3 billion.<sup>190</sup> No study, of course, can adequately convey the full cost of psychological and emotional victimization. Such trauma, combined with incidents of physical and sexual violence and abuse, has created a demographic of highly vulnerable victims.<sup>191</sup>

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<sup>186</sup> Erez, 282.

<sup>187</sup> Erez, 288.

<sup>188</sup> Meg Townsend et al., *Law Enforcement Response to Domestic Violence Calls for Service* (Washington, DC: National Institute of Justice, 2006), 12, <https://www.ncjrs.gov/pdffiles1/nij/grants/215915.pdf>.

<sup>189</sup> Modi, Palmer, and Armstrong, “The Role of Violence against Women Act,” 254.

<sup>190</sup> Gladys McLean and Sarah Gonzalez Bocinski, *The Economic Cost of Intimate Partner Violence, Sexual Assault, and Stalking*, IWPR #B367 (Washington, DC: Institute for Women’s Policy Research, 2017), 4, <https://iwpr.org/iwpr-general/the-economic-cost-of-intimate-partner-violence-sexual-assault-and-stalking/>.

<sup>191</sup> Erez, “Domestic Violence and the Criminal Justice System,” 3.

## **2. Domestic Violence Legislation—A Law Enforcement Response to Domestic Violence Mandatory Arrest and Mandatory Reporting Laws**

This section studies the implications of the enactment of mandatory reporting laws on local and state law enforcement policies and protocols governing their response to domestic violence incidents. The PPB case study illustrates a general institutional shift in how law enforcement agencies address the problem of domestic violence.

### ***a. Pre-mandatory Police Response to Domestic Violence Incidents***

The following victim testimonial published in the 1979 Oregon Governor Commission for Women best illustrates a typical police response to a domestic violence incident before the widespread implementation of mandatory arrest laws in the late 1970s, “In a fit of anger, he threw a hunting knife at me. It flew past my head and past the head of my son, who was sitting on the bed. He threw it so hard that it buried itself into the wall to the handle.” Again, the police told me, “Sorry, it’s a family dispute, and he didn’t actually hurt you.”<sup>192</sup> This scenario highlights several important issues of that era, weak state domestic violence laws, undue reliance on officer discretion in handling domestic violence calls, and widespread ignorance of the harmful effects of domestic violence crimes on a society and its victims, and the all too frequent child witnesses who vicariously or directly experienced the trauma.<sup>193</sup> Law enforcement responses reflected the lack of understanding of domestic violence dynamics and consequences at the time.

Victim testimonials have revealed that, prior to the enactment of legislative reforms in the 1970s, the U.S. criminal justice system was largely unresponsive to the issue of domestic violence crimes.<sup>194</sup> Sarah M. Buel, a prominent anti-domestic violence activist, and a lawyer points out in her study on “Mandatory Arrest for Domestic Violence” that many police departments had “hands-off” policies when responding to domestic violence

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<sup>192</sup> Marilyn G. Miller and Barbara M. Milligan, *Domestic Violence in Oregon* (Salem, OR: Governor’s Commission for Women, State of Oregon, 1979), 27.

<sup>193</sup> Sarah Mausolff Buel, “Mandatory Arrest for Domestic Violence,” *Harvard Women’s Law Journal* 11 (1988): 217, HeinOnline.

<sup>194</sup> Jeffrey Fagan, *The Criminalization of Domestic Violence: Promises and Limits* (Washington, DC: National Institute of Justice, 1996), 8, <https://www.ncjrs.gov/pdffiles/crimdom.pdf>.

incidents.<sup>195</sup> Unless victims sustained severe physical injuries, police rarely arrested domestic abusers or documented misdemeanor domestic violence crimes, such as harassment, strangulation, or physical assaults resulting in cuts, bruises, and the like.<sup>196</sup> As a result of victim advocacy and increased public awareness about domestic violence, many states created mandatory arrest laws.<sup>197</sup> Under this new legal framework, police officers were mandated to arrest the primary aggressor if they had probable cause that an assault had occurred.<sup>198</sup> Regardless of the severity of the crime and injuries, domestic violence was essentially redefined as a criminal act rather than a family issue.<sup>199</sup> Such a tectonic shift in public attitudes toward this particular crime directly contributed to the gradual removal of institutional barriers. It signaled that domestic violence is a societal and not a private family problem.

***b. A Case of the Portland Police Bureau's Reforms***

In 1977, Oregon was the first state to enact a domestic violence mandatory arrest law, also known as the Abuse Prevention Act (APA) under House Bill 2438.<sup>200</sup> The Oregon Revised Statute, a state penal code, explicitly defines the duty of an officer to make arrests:

when a peace officer responds to an incident of a domestic disturbance and has probable cause to believe that an assault has occurred between family or household members or to believe that one such person has placed the other in fear of imminent serious physical injury, the officer shall arrest and take into custody the alleged assailant or potential assailant.<sup>201</sup>

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<sup>195</sup> Buel, "Mandatory Arrest for Domestic Violence," 218.

<sup>196</sup> Reuland et al., *Police-Community Partnerships to Address Domestic Violence*, 3.

<sup>197</sup> Margaret E. Martin, "Mandatory Arrest for Domestic Violence: The Courts' Response," *Criminal Justice Review* 19, no. 2 (1994): 213, <https://doi.org/10.1177/073401689401900203>.

<sup>198</sup> Buel, "Mandatory Arrest for Domestic Violence," 218.

<sup>199</sup> Lisa N. Sacco, *The Violence against Women Act (VAWA): Historical Overview, Funding, and Reauthorization*, CRS Report No. R45410 (Washington, DC: Congressional Research Service, 2019), 5, <https://www.everycrsreport.com/reports/R45410.html>.

<sup>200</sup> Jolin, "Domestic Violence Legislation," 452.

<sup>201</sup> "Criminal Citation," ORS 133.055 Oregon Revised Statutes § (2017), <https://www.oregonlaws.org/ors/133.055>.

Furthermore, in addition to mandatory arrest and documentation of abuse, the Oregon state law mandates police officers to “use all reasonable means to prevent further abuse, including advising each person of the availability of a shelter, or other services in the community and giving each person immediate notice of the legal rights and remedies available.”<sup>202</sup> As a result of these legislation reforms, the PPB, like many other local and state police agencies, developed its internal policies and frameworks guiding officer response to domestic violence incidents. The PPB’s domestic violence policy framework mandates compliance with the mandatory arrest state law and documentation of all incidents of domestic abuse even when “allegations appear unfounded.”<sup>203</sup> The direct impact of mandatory reporting policies is a significant improvement in the PPB’s institutional practices of recording domestic violence crime data.

In practice, these state enhanced anti-domestic violence laws and policies created multidisciplinary teams comprised of law enforcement, victim advocates, and social service providers working jointly to address the complex needs of domestic violence victims to reduce and disrupt victimization and abuse and hold the perpetrators accountable.<sup>204</sup> A great example of such multidisciplinary teams is the PPB Domestic Violence Reduction Unit (DVRU), a specialty investigative unit established in 1990. The innovation of the DVRU model was based on the integration of non-government service agencies, such as domestic violence advocates, working in tandem with police investigators in conducting both criminal investigations and assisting victims of abuse.<sup>205</sup> The DVRU was the first of its kind serving as a state model for interagency and inter-disciplinary partnerships, supported by evidence-based research stating that no single agency can successfully address the complex needs of domestic violence victims. Although police investigators focus on perpetrators’ accountability and disruption of abuse, the role of

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<sup>202</sup> ORS 133.055 Oregon Revised Statutes §.

<sup>203</sup> City of Portland, Oregon, *Directive 825.00, Protection Orders and Domestic Violence Cases (formerly, “Domestic Violence, Arrests, and Restraining Orders”)* Executive Summary (Portland, OR: City of Portland, Oregon, 2020), 6, <https://www.portlandoregon.gov/police/article/758584>.

<sup>204</sup> Reuland et al., *Police-Community Partnerships to Address Domestic Violence*, 4.

<sup>205</sup> Annette Jolin and Charles A. Moose, “Evaluating a Domestic Violence Program in a Community Policing Environment: Research Implementation Issues,” *Crime & Delinquency* 43, no. 3 (1997): 285, <https://doi.org/10.1177/0011128797043003003>.

victim service agencies is instrumental in ensuring the victim's safety and recovery by connecting victims to support systems, housing, employment assistance, mental health services, and immigration-related assistance for immigrant victims.<sup>206</sup> Although mandatory arrest policies addressed law enforcement's procedural responses to domestic violence, the policy changes recognized the urgency for the criminal justice system to improve its engagement in complex domestic abuse problems as a substantial causal factor in anti-social and criminal behaviors.

**c. *Development of Mandatory Reporting Laws***

In partial recognition that domestic violence not only qualifies as a criminal justice issue but also as a broader societal and public health problem, many states identified the urgency to engage other government and private sector entities to disrupt the cycle of abuse, identify victims of abuse, and connect them with resources.<sup>207</sup> For example, research shows that health care providers are more likely than police officers are to encounter domestic violence assaults as victims seek medical help.<sup>208</sup> Clinical studies show that medical providers often interact with domestic violence victims, which places them in a unique position to identify victims and document their injuries. Legislators were thus prompted to designate the medical community as mandatory reporters.<sup>209</sup> In California, for example, health care professionals must notify police agencies within 48 hours of contact with a patient if they suspect that patient has sustained an injury from spousal abuse.<sup>210</sup> In addition to the medical community's inclusion as mandatory reporters, legislators identified other professions that play a critical role in identifying domestic violence abuse.

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<sup>206</sup> "Domestic Violence Reduction Unit (D.V.R.U.)," Police Bureau, accessed April 21, 2020, <https://www.portlandoregon.gov/police/35679>.

<sup>207</sup> H. M. Bauer et al., "California's Mandatory Reporting of Domestic Violence Injuries: Does the Law Go Too Far or Not Far Enough?," *Western Journal of Medicine* 171, no. 2 (August 1999): 118, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1305774/>.

<sup>208</sup> Ariella Hyman and Ronald A. Chez, "Mandatory Reporting of Domestic Violence by Health Care Providers: A Misguided Approach," *Women's Health Issues* 5, no. 4 (December 1995): 209, [https://doi.org/10.1016/1049-3867\(95\)00050-X](https://doi.org/10.1016/1049-3867(95)00050-X).

<sup>209</sup> Bauer et al., "California's Mandatory Reporting of Domestic Violence Injuries," 575.

<sup>210</sup> Nancy Durborow et al., *Compendium of State Statutes and Policies on Domestic Violence and Health Care* (San Francisco: Family Violence Prevention Fund, 2010), 5, <https://doi.org/10.1037/e603752012-001>.

Therefore, social workers, teachers, firefighters, police officers, and court-appointed attorneys are considered mandatory reporters as they potentially interact with and provide services to domestic violence victims in the course of their regular duties.<sup>211</sup> Therefore, in conjunction with the enactment of domestic violence mandatory arrest policies, many states amended existing mandatory reporting laws by adding mandatory reporting to other established categories of vulnerable demographics: children, the elderly, and those with cognitive disabilities deemed less likely to protect themselves from abuse.<sup>212</sup>

In 1978, Kentucky became the first state to adopt domestic violence mandatory reporting laws. Its state-defined purpose for a mandatory reporting policy best reflects the shift to a broader understanding of domestic violence, as it states:

1) to aid battered women in seeking protection from abusive partners without the burden of having to make the report themselves when fear of retribution or shame kept them from doing so; (b) to increase the involvement of law enforcement in cases of domestic violence when women themselves may be reluctant to make a report; (c) to send a signal to offenders that violent behavior against family members violated a community standard and would not be tolerated; and (d) to collect data on the size of the problem of domestic violence within a state's borders.<sup>213</sup>

Following Kentucky's proactive efforts, many states created their own mandatory reporting policies and protocols; however, because each state operates in accordance with its own statutory mandatory reporting protocols, reporting frameworks and domestic violence data collection and sharing varied from state to state.<sup>214</sup> Most importantly, mandatory reporting laws and their application provided invaluable data and documentation of the issue, which advanced research and understanding into the scope and prevalence of the domestic violence problem.

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<sup>211</sup> Durborow et al., 2.

<sup>212</sup> Carol E. Jordan, *Mandatory Reporting Laws in the United States: Impact on Victims of Intimate Partner Violence* (Minneapolis, MN: Battered Women's Justice Project, 2018), 2, <https://www.bwjp.org/assets/documents/pdfs/webinars/ppt-1-slide-per-page-10-16-18.pdf>.

<sup>213</sup> Jordan, 3.

<sup>214</sup> Hyman and Chez, "Mandatory Reporting of Domestic Violence by Health Care Providers," 213.

***d. The Violence against Women Act—A Federal Legislative Framework***

Although these initial strategies on the local and state-level demonstrated significant improvements in the overall response to domestic violence, these efforts—in particular, domestic violence data collection and measuring the scope of the problem—remained fragmented and lacking in interagency coordination and partnership. Congressional enactment of the VAWA, a set of comprehensive federal legal remedies to combat violence against women, marked a pivotal event in the domestic violence movement in 1994.<sup>215</sup> It provided a standardized legal and criminal framework for domestic violence offenses and created federal resources and funding for local and state stakeholders to engage in domestic violence prevention.<sup>216</sup> The VAWA legislation established the Office on Violence against Women (OVW) with the mission of overseeing the implementation of VAWA grants to law enforcement and service agency providers. From 1995 to 2018, the OVW allocated about \$8 billion to local and state governments and non-governmental agencies to combat intimate partner violence.<sup>217</sup> Both law enforcement and social service agencies that received federal funding were mandated to document and report their responses to domestic violence incidents, collect and share data related to domestic violence enforcement or intervention programs, and implement continuous training and education for mandatory reporters.<sup>218</sup> The VAWA legislation laid out a foundational framework for institutional change and reforms as it guided service providers, police agencies included, in creating comprehensive anti-domestic violence policies and protocols.

The significance of the federal funding requirement led to Oregon’s adoption of a law mandating domestic violence training for all police officers attending the State Police Training Academy and requiring that each police department implements domestic

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<sup>215</sup> Bridgit Berney, “The Violence against Women Act Reauthorization of 2013: A Policy Analysis” (master’s thesis, California State University, Long Beach, 2015), 19, ProQuest.

<sup>216</sup> National Institute of Justice, *Domestic and Sexual Violence Data Collection: A Report to Congress under the Violence against Women Act* (Washington, DC: National Institute of Justice, 1996), 6, <https://doi.org/10.1037/e385102004-001>.

<sup>217</sup> Sacco, *The Violence against Women Act (VAWA)*, 1.

<sup>218</sup> Sacco, 5.



violence training requirements.<sup>219</sup> Although specialty investigative units, like the DVRU, receive enhanced training on domestic violence interviewing and trauma-centered investigations, the state of Oregon and the PPB provided training to inform, train, and educate police officers on the issue of domestic violence, which in essence, raised more awareness and increased identification of victims by law enforcement.

### **3. Domestic Violence Data Collection and Sharing Platforms**

This section examines the impact of trafficking legislation on data collection practices and the development of state and national collection and analysis systems. The review of the federal agencies' efforts to measure and assess the prevalence and patterns of domestic violence offers insights into improved gaps in data collection. This section also examines a case of the local police agency's intuitional shift to tracking and analyzing reported domestic violence incidents as a result of federal and state legislative reforms.

#### ***a. National Data Collection Infrastructure***

Prior to domestic violence policy changes in the 1970s, and the federal VAWA legislation enactment in the 1990s, research established the difficulty to assess the prevalence and the nature of the domestic violence problem in the United States. Although in the 1970s, many non-profit agencies served victims of abuse and had developed response and prevention programs, their agencies' data collection, tracking, and evaluation lacked inter-agency sharing and integration and in-depth analysis.<sup>220</sup> The VAWA funded anti-domestic violence programs and policies created comprehensive data collection pathways by law enforcement and victim service providers.<sup>221</sup> National-level domestic violence-related data sources originate at the national and state and local levels, (a) the victimization data collected annually by the Bureau of Justice Statistics (BJS) and the National Crime Victimization Survey (NCVS) out of the DOJ, and (b) the FBI UCR data, which is crime-

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<sup>219</sup> "Oregon Domestic Violence Laws," Findlaw, accessed April 19, 2020, <https://statelaws.findlaw.com/oregon-law/oregon-domestic-violence-laws.html>.

<sup>220</sup> Jolin, "Domestic Violence in the United States of America," 74.

<sup>221</sup> Durborow et al., *Compendium of State Statutes and Policies*, 3.

incident data collected annually by local and state law enforcement agencies.<sup>222</sup> Presently, local and state police records management systems (RMS) collect and analyze domestic violence data annually and share the statistics with the FBI UCR system.<sup>223</sup> All licensed law enforcement agencies are mandated to submit their crime-related statistics annually, which creates a national repository of crime data that is beneficial to further research and program evaluation.<sup>224</sup> The integration and sharing of domestic violence-related data help policymakers and field practitioners accurately assess the scope, patterns, and trends necessary to create tailored and adequate anti-domestic violence strategies.

Beyond establishing crime incident data, the data collected by the BJS and NCVS are highly valuable because of the hidden nature of domestic violence crimes; law enforcement only captures a limited percentage of abuse incidents.<sup>225</sup> For example, in 2005, the DOJ published a comprehensive study of family violence trends by analyzing domestic violence-related data collected by both the NCVS and the FBI UCR between 1998 and 2002.<sup>226</sup> The study showed that about 32.2 million individuals were victims of varying degrees of domestic-violence related offenses. The researchers further broke down the domestic violence data to provide a more comprehensive analysis and understanding pertaining to domestic violence trends, perpetrators' data, and victims' data.<sup>227</sup> The most important impact and result of the improved domestic violence data collection and sharing platforms is that it offers comprehensive and conclusive evidence of the prevalence and nature of the domestic violence issue.

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<sup>222</sup> Wagner, *Domestic Violence and Sexual Assault Data Resource Center*, 11.

<sup>223</sup> "About the Uniform Crime Reporting (UCR) Program," Federal Bureau of Investigation, accessed April 21, 2020, <https://ucr.fbi.gov/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/aboutucrmain>.

<sup>224</sup> "Uniform Crime Reporting Statistics," Bureau of Justice Statistics, accessed April 21, 2020, <https://www.bjs.gov/ucrdata/abouttheucr.cfm>.

<sup>225</sup> Ronet Bachman and Bruce M. Taylor, "The Measurement of Family Violence and Rape by the Redesigned National Crime Victimization Survey," *Justice Quarterly* 11, no. 3 (1994): 502, <https://doi.org/10.1080/07418829400092371>.

<sup>226</sup> Matthew R. Durose et al., *Family Violence Statistics: Including Statistics on Strangers and Acquaintances: (412162005-001)* (Washington, DC: Bureau of Justice Statistics, 2005), 9, <https://doi.org/10.1037/e412162005-001>.

<sup>227</sup> Durose et al., 6.

***b. Oregon Domestic Violence Data Collection Platforms, a Case of the Portland Police Bureau***

Prior to mandatory reporting policies, state law enforcement agencies did not collect domestic violence-related crime data, even though data collection platforms were in place.<sup>228</sup> For example, in 1969, Oregon established a Law Enforcement Data System (LEDS), a state centralized crime data repository managed by Oregon State Police, for collecting information and intelligence related to criminal activities, wanted individuals, and so on.<sup>229</sup> All police agencies in the state of Oregon were mandated to submit their annual crime-related data to LEDS; however, prior to 1977, no specified domestic violence-related category existed.<sup>230</sup> Professor Annette Jolin, a Portland State University (PSU) academic and a former Portland Police officer, concludes in her research on evaluating domestic violence laws and police data collection and tracking issues in Oregon that “a straightforward comparison of domestic violence before and after 1977 is not possible.”<sup>231</sup> Jolin further explains that before enacting mandatory reporting laws, domestic violence-related incidents, such as assaults and homicides, were simply recorded as assaults and homicides and did not have the nexus to domestic violence; simply put, police record management systems did not have a category for domestic violence incidents. Post-1977, such incidents were recorded as domestic violence-related offenses, which was crucial in understanding domestic violence crimes’ scope and severity.<sup>232</sup> For example, in 1995, the DVRU recorded 6,400 domestic violence incidents and arrested 3,022 offenders.<sup>233</sup> In 2019, the DVRU recorded about 12,000 reported incidents of domestic abuse to the PPB.<sup>234</sup> As a result of social justice advocacy, legislative reforms, and an

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<sup>228</sup> Miller and Milligan, *Domestic Violence in Oregon*, 36.

<sup>229</sup> “Law Enforcement Data Systems,” Criminal Justice Information Services, accessed April 18, 2020, <https://www.oregon.gov/osp/programs/cjis/Pages/Law-Enforcement-Data-Systems.aspx>.

<sup>230</sup> Jolin, “Domestic Violence Legislation,” 453.

<sup>231</sup> Jolin, 453.

<sup>232</sup> Jolin, 453.

<sup>233</sup> Jolin and Moose, “Evaluating a Domestic Violence Program,” 284.

<sup>234</sup> Portland Police Bureau, *Reports of Domestic Violence and Arrests for Domestic Violence in Portland; March 1, 2020 to April 25, 2020* (Portland, OR: Portland Police Bureau, Strategic Services Division, 2020), 1, <https://www.portlandoregon.gov/police/article/760247>.

increased understanding of the nature of domestic violence problems and impact on public safety and public health, many states, including Oregon, established Statewide Domestic Violence Fatality Review Teams (DVFRT).<sup>235</sup> For example, an Oregon DVFRT published a 2018 report in which it provides an in-depth statistical analysis of the 32 domestic violence homicides recorded in Oregon in 2017. The report entails analysis of the incidents, breakdown of victim and offender demographic, and types of weapon, etc.<sup>236</sup> Such reports, data collection, and analysis help policymakers and field practitioners identify gaps in prevention and response programs, which supports further research for policy improvement and recommendations for statewide programs and stakeholders.<sup>237</sup> In addition, improved domestic violence data tracking indicates the overall societal shift to recognizing the gravity of this issue and raising the general awareness of domestic violence crimes' patterns and trends.

## **B. AN OVERVIEW OF CHILD ABUSE AND NEGLECT MANDATORY REPORTING**

This section focuses on child abuse and neglect issues pertaining to the criminal justice response and identification of criminal incidents while showing the historical and societal changes and cultural attitudes toward family violence. This section illustrates the general characteristics of the nature and scope of child abuse and neglect and law enforcement organizational and structural reforms, as well as the development of legislative anti-child abuse and neglect policies. This section demonstrates the impact of legislative changes in developing and integrating child abuse data collection and sharing platforms.

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<sup>235</sup> Erin Greenawald, "Oregon's Domestic Violence Fatality Review Team (DVFRT)," January 18, 2018, 10, <https://olis.leg.state.or.us/liz/2018R1/Downloads/CommitteeMeetingDocument/141641>.

<sup>236</sup> Greenawald, 3.

<sup>237</sup> Greenawald, 8.

## **1. Nature and the Scope of Child Abuse in the United States—An Overview**

Official reports may or may not capture the full scope of the child abuse and neglect problem. The Administration for Children and Families (ACF) publishes an annual report on child abuse and neglect incidents reported to Child Protective Services (CPS) agencies.<sup>238</sup> Figure 9 illustrates national child abuse data, as reported to the ACF. According to the ACF 2018 Child Maltreatment report, CPS agencies received 3,534,000 cases of suspected child abuse and neglect, of which 678,000 were confirmed cases of abuse that placed the victim rate at 9.2 victims per 1,000 children in the population. The 2018 ACF report further states, “children in their first year of life have the highest rate of victimization at 26.7 per 1,000 children of the population,” and that, in 2018, 1,770 died of abuse and neglect.<sup>239</sup> The report further highlights that the primary aggressors and perpetrators in approximately 80 percent of cases regarding child fatalities are the parents. As evidence shows, these crimes occur in a private dwelling, away from a public eye, which makes the detection and identification by law enforcement and service providers more challenging.

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<sup>238</sup> Elaine Voces Stedt, *Child Maltreatment 2018* (Washington, DC: Department of Health & Human Services, 2020), 1, <https://www.acf.hhs.gov/sites/default/files/cb/cm2018.pdf>.

<sup>239</sup> Stedt, 20.

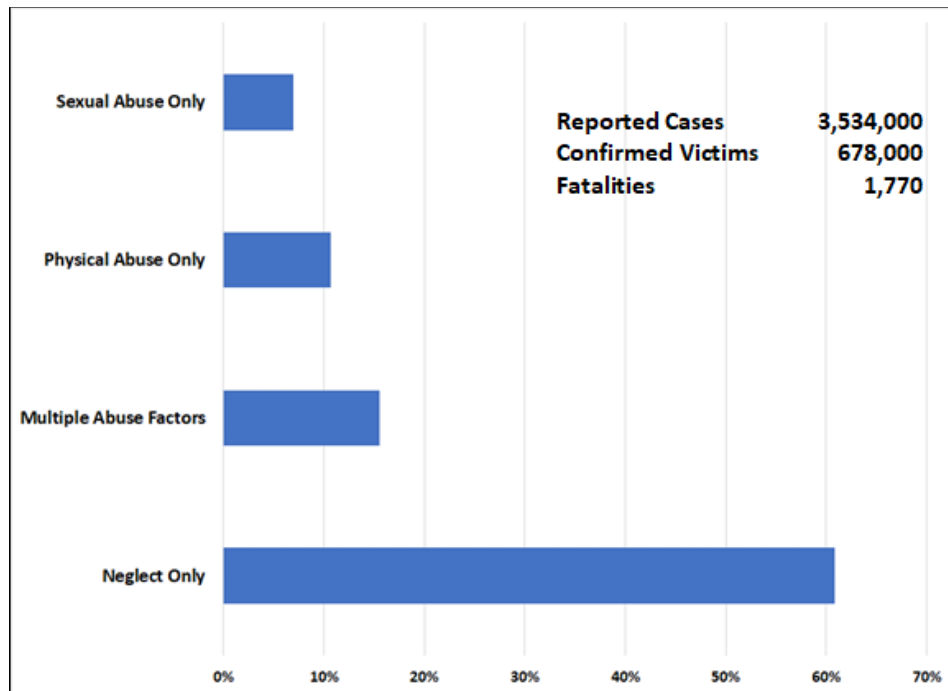


Figure 9. Breakdown of 2018 ACF Child Abuse Cases.<sup>240</sup>

The ACF report highlights the gravity and prevalence of child abuse and neglect in the United States. Yet, many scholars believe that these estimates are inconclusive due to the hidden nature and underreporting of these crimes.<sup>241</sup> The provided data is essential in understanding the scope and prevalence of reported child abuse cases despite the limitations due to the hidden nature of these crimes.

A federal definition of child abuse and neglect is, “Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation [ ]; or an act or failure to act, which presents an imminent risk of serious harm.”<sup>242</sup> According to the CDC, four prevalent types of child abuse and neglect include the following: (a) physical abuse (physical acts of violence resulting in injury, bruising, burns, shaking babies, broken bones, (b) sexual abuse (forced sexual acts

<sup>240</sup> Adapted from Stedt, 19.

<sup>241</sup> Child Welfare Information Gateway, *Child Abuse and Neglect Fatalities 2018: Statistics and Interventions* (Washington, DC: Children’s Bureau, U.S. Department of Health and Human Services, Children’s Bureau), 2, <https://www.childwelfare.gov/pubPDFs/fatality.pdf>.

<sup>242</sup> Stedt, *Child Maltreatment 2018*, 20.

involving a child), (c) emotional abuse (children subject to verbal abuse, shaming, rejection, threats), and (d) neglect (children deprived of food, shelter, clothing, access to medical care).<sup>243</sup> Such a broad and comprehensive framing and defining child abuse aspects recognize this issue's complex nature. It also shows how the legal community and public, in general, evolved from comprehending child abuse as solely physical abuse to including the invisible and hard to detect signs of other types of abuse.

Child abuse and neglect crimes occur primarily within the privacy of dwellings or in purportedly safe institutions, such as a shelter or a foster residence. Moreover, the victims of these crimes are the most vulnerable demographic, i.e., children.<sup>244</sup> Victims of child abuse and neglect nearly always have an emotional attachment to their parents, caregivers, or legal guardians. In many cases, especially involving infants and toddlers, they are cognitively incapable of acknowledging abusive acts or comprehending the ongoing scale of abuse.<sup>245</sup> Even with the physical and sexual abuse of older children, it is extremely challenging for them to explain and articulate, and especially self-identify, as victims to service providers, school teachers, and other trusted persons. Due to the emotional attachments to their abusers and the hidden nature of this issue, it is very challenging for police officers and other service providers to timely and proactively identify abused victims and disrupt the cycle of abuse.

Child abuse and neglect crimes rarely manifest themselves as one-time incidents. Instead, abusers subject their victims to a series of harmful actions, varying in degree, intensity, and form of abuse, for a prolonged period. Evidence-based research informs that children exposed to domestic violence incidents, even when just witnessing the abuse, sustain emotional and psychological injury and trauma.<sup>246</sup> Such abuse is likely to result in

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<sup>243</sup> "Preventing Child Abuse & Neglect," Violence Prevention, April 8, 2020, <https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.html>.

<sup>244</sup> Carl B. Hammond et al., *Law Enforcement Response to Child Abuse* (Washington, DC: Department of Justice, 2001), 2, <https://www.ncjrs.gov/pdffiles/162425.pdf>.

<sup>245</sup> Joan A. Reid and Shayne Jones, "Exploited Vulnerability: Legal and Psychological Perspectives on Child Sex Trafficking Victims," *Victims & Offenders* 6, no. 2 (April 2011): 217, <https://doi.org/10.1080/15564886.2011.557327>.

<sup>246</sup> Janet E. Findlater and Susan Kelly, "Child Protective Services and Domestic Violence," *The Future of Children* 9, no. 3 (1999): 86, <https://doi.org/10.2307/1602783>.

long-term adverse effects on a child’s wellbeing. Research shows that victims of child abuse and neglect are at high risk for emotional and psychological problems throughout their lives.<sup>247</sup> According to the CDC, victims of child abuse also are at increased risk of post-traumatic stress disorder and learning disabilities. Besides, they have a higher propensity for “future violence victimization and perpetration, substance abuse, sexually transmitted infections, delayed brain development, lower educational attainment, and limited employment opportunities.”<sup>248</sup> Social science research on child abuse and neglect had identified the following child abuse profiles, listed in descending order of probability: one or both parents, a parent’s unmarried partner, a foster sibling, a caregiver, a babysitter, a clergy member, or a school employee.<sup>249</sup>

Given the complex dynamics and secretive nature of child abuse crimes, early identification—of victims and abusers alike—and intervention, present significant challenges to law enforcement, and social and medical service providers. Further complicating efforts to address such abuse is that children often cannot articulate the abusive acts perpetrated against them. Moreover, in many cases, children are unaware that help is available to them through social services, victim assistance, and legal resources. As a result of these foundational barriers to reporting and identification, it is paramount to engage in mandatory reporting, as well as with the public at large to identify and report child abuse and disrupt this cycle of violence.

## **2. Pathway to Child Abuse Legislative Reforms**

This section highlights the most foundational federal legal framework that laid out comprehensive responses and strategies to identify, document, and analyze child abuse incidents for both state and federal involved agencies. In addition, this section focuses on one specific implication of the federal legal framework, which is the implementation of the

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<sup>247</sup> Child Welfare Information Gateway, *Child Maltreatment Prevention: Past, Present, and Future* (Washington, DC: U.S. Department of Health and Human Services, Children’s Bureau, 2017), 1, [https://www.childwelfare.gov/pubPDFs/cm\\_prevention.pdf#page=1&view=Introduction](https://www.childwelfare.gov/pubPDFs/cm_prevention.pdf#page=1&view=Introduction).

<sup>248</sup> Violence Prevention, “Preventing Child Abuse & Neglect.”

<sup>249</sup> Stedt, *Child Maltreatment 2018*, 22.



mandatory reporting laws outlining legal requirements for specific stakeholders and the public at large to report suspected incidents of child abuse and neglect.

**a. Brief Historical Overview of Anti-Child Abuse Legislation**

Child abuse and neglect have historically been the subject of much controversy in the United States. This controversy stems largely from the traditional construct that parents and guardians have the legal right to raise their children without government interference. Child rearing was a family matter, and “reasonable” corporal punishment was widespread and broadly accepted.<sup>250</sup> In the late 19th century, various charitable organizations began drawing attention to child maltreatment, which eventually led to the establishment of the Children’s Bureau in 1912.<sup>251</sup> The Children’s Bureau was the first federal government agency tasked with tracking, evaluating, and addressing child abuse and neglect.<sup>252</sup> Such a socio-cultural environment and attitudes toward child rearing and discipline influenced government agencies to view child abuse as a family matter, which thus contributed to this crime’s hidden nature.

However, not until the mid-1950s did the medical community, particularly pediatric radiologists treating injured children, bring the issue of child abuse and neglect to the forefront of the public discourse.<sup>253</sup> In 1962, Dr. C. Henry Kempe published a book entitled *The Battered-Child Syndrome*, in which he discussed “Clinical Evidence of Injuries Resulting from Non-accidental Trauma in Children, Usually Perpetrated by a Parent or Caretaker,” the modern era of combating child abuse and neglect had begun.<sup>254</sup> The book,

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<sup>250</sup> National Child Abuse and Neglect Training and Publications Project, *The Child Abuse Prevention and Treatment Act: 40 Years of Safeguarding America’s Children* (Washington, DC: Department of Health and Human Services, Children’s Bureau, 2014), 1, [https://www.acf.hhs.gov/sites/default/files/cb/capta\\_40yrs.pdf](https://www.acf.hhs.gov/sites/default/files/cb/capta_40yrs.pdf).

<sup>251</sup> Mason P. Thomas Jr., “Child Abuse and Neglect Part I—Historical Overview, Legal Matrix, and Social Perspectives,” *North Carolina Law Review* 50, no. 2, art. 3 (1972): 313, <http://scholarship.law.unc.edu/nclr/vol50/iss2/3>.

<sup>252</sup> National Child Abuse and Neglect Training and Publications Project, *The Child Abuse Prevention and Treatment Act*, 2.

<sup>253</sup> Thomas, “Child Abuse and Neglect Part I,” 330.

<sup>254</sup> National Child Abuse and Neglect Training and Publications Project, *The Child Abuse Prevention and Treatment Act*, 4.

as a foundational study, sparked a national debate about child abuse and neglect.<sup>255</sup> A proliferation of clinical studies concerning child abuse and neglect, widespread media coverage, and increased public awareness of—and outrage prompted by—harmful acts against children led the Children’s Bureau to acknowledge the complex, multi-dimensional nature of the issue.<sup>256</sup> Thus, in 1963, the Children’s Bureau proposed a mandatory reporting policy requiring health care professionals to report to police suspected incidents of child abuse and neglect.<sup>257</sup> As a result, between 1963 and 1967, all 50 states adopted mandatory reporting laws.<sup>258</sup> This legislation collectively represented a significant accomplishment, one consistent with a broader societal recognition of child abuse as intolerable criminal behavior. Despite legislative reforms, however, individual state efforts to address child abuse and neglect remained fragmented and suffered from a lack of data collection and sharing platforms.<sup>259</sup> These early anti-child abuse advocacy efforts show the complex and systemic challenges and limitations of legislative changes and how they translate into practical aspects, such as gaps in data collection successes.

***b. Child Abuse Prevention and Treatment Act of 1974***

As the medical community advocated for universal safety laws to protect vulnerable children, Congress in January 1974 enacted the first comprehensive federal legislation addressing child abuse and neglect, known as the CAPTA.<sup>260</sup> The CAPTA legislation provided a standardized definition for child abuse and neglect crimes and created a foundation for addressing child abuse on the national level while granting states the autonomy to develop their own frameworks for mandatory reporting protocols.<sup>261</sup> While state legislation varies, the most common professions mandated to report suspected child

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<sup>255</sup> National Child Abuse and Neglect Training and Publications Project, 4.

<sup>256</sup> National Child Abuse and Neglect Training and Publications Project, 1.

<sup>257</sup> Thomas., “Child Abuse and Neglect Part I,” 331.

<sup>258</sup> Thomas, 332.

<sup>259</sup> National Child Abuse and Neglect Training and Publications Project, *The Child Abuse Prevention and Treatment Act*, 18.

<sup>260</sup> Stedt, *Child Maltreatment 2018*, 10.

<sup>261</sup> “Child Abuse, Neglect Data Released,” Administration for Children & Families, January 28, 2019, <https://www.acf.hhs.gov/media/press/2019/child-abuse-neglect-data-released>.

abuse and neglect are educators, law enforcement, health care professionals, social service providers, sports coaches, and in some states, even clergy.<sup>262</sup> Thus, the CAPTA comprehensive framework serves as a model for integrating multi-agency sectors to respond to complex social and criminal justice issues, and thus improves the collective efforts to combating child abuse.

Notably, in the advancement of child abuse prevention, in 2015, the CAPTA Reauthorization Act created a special category of crimes and victims within existing child abuse statutes. The amended CAPTA classifies underage victims of sex trafficking as victims of child abuse and neglect and states that any person under the age of 18 involved in sex trafficking cannot legally consent to sexual exploitation and thus cannot be criminally prosecuted and treated like a delinquent.<sup>263</sup> The 2015 CAPTA amendments resulted from collaborative, interdisciplinary, and evidence-based research into the effects of sex trafficking exploitation on children. Since 2016, and despite the threat of curtailed federal funding as outlined in the 2015 CAPTA amendments, only 13 states have amended their state legislation to afford protection to child sex trafficking victims and treat them as victims of child abuse.<sup>264</sup> This federal law's significance is the result of interdisciplinary collaboration and evidence-based research on adverse impacts of trauma on children exposed to sexual, physical, and emotional abuse resulting from sex trafficking exploitation.<sup>265</sup> In essence, the CAPTA legislation established a foundational framework for sustainable and conclusive data collection integration, analysis, and evaluation of anti-child abuse programs and policies on state and federal levels.

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<sup>262</sup> Anne C. Petersen, Joshua Joseph, and Monica Feit, eds., *Child Abuse and Neglect Policy* (Washington, DC: National Academies Press, 2014), 14, <https://www.ncbi.nlm.nih.gov/books/NBK195993/>.

<sup>263</sup> Reid and Jones, "Exploited Vulnerability," 211.

<sup>264</sup> English, "Mandatory Reporting of Human Trafficking," 46.

<sup>265</sup> Reid and Jones, "Exploited Vulnerability," 210.

**c. *Current Child Abuse and Neglect Mandatory Reporting Policy Framework***

Since the mid-1960s, two standards have been used by state legislators to frame the nature and purpose of mandatory reporting laws that state, “a) certain persons are unable to protect themselves from abuse, neglect or exploitation, b) states should play a role in investigating and subsequently providing protective services to those in need.”<sup>266</sup> Given the vulnerability of victims and the complex and hidden nature of child abuse crimes, state legislators acknowledged the need to include a broader community of stakeholders to engage in child abuse prevention.<sup>267</sup> States recognized that specific professions are likely to interact with victims of abuse in the course of their duties, and thus might have the opportunity to intervene in and stop the cycle of abuse. Like Oregon, some states have also adopted a universal mandatory reporting policy according to which any person with knowledge of or reasonably believes a child is a victim of abuse, must verbally report the abuse to the local police or the Department of Human Services.<sup>268</sup> Mandatory reporters who fail to report abuse and neglect face a range of penalties that vary from state to state. The mandatory reporting laws protect reporting parties, who act in good faith, from civil liability in court.<sup>269</sup> As state legislators recognized a need and urgency to engage specific professions and the public at large in reporting child abuse, it created an environment and change of attitudes that child abuse is no longer a family matter but an issue that concerns community health and community justice. It is a shared responsibility for society to prevent further child abuse.

The 2018 Child Maltreatment report provides a comprehensive breakdown of mandatory reporters nationwide by profession. According to this report, mandatory reporters submitted 67.3 percent of all reports, while 16.6 percent of all reports were

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<sup>266</sup> Jordan, *Mandatory Reporting Laws in the United States*, 3.

<sup>267</sup> Thomas Jr., “Child Abuse and Neglect Part I,” 338.

<sup>268</sup> “Child Protective Services (CPS),” Oregon Department of Human Services, accessed May 27, 2020, <https://www.oregon.gov/DHS/CHILDREN/CHILD-ABUSE/Pages/CPS.aspx>.

<sup>269</sup> “National Child Abuse and Neglect Data System (NCANDS),” Children’s Bureau, June 12, 2019, <https://www.acf.hhs.gov/cb/research-data-technology/reporting-systems/ncands>.

received from non-mandatory actors, such as family members, neighbors, and friends (see Figure 10).

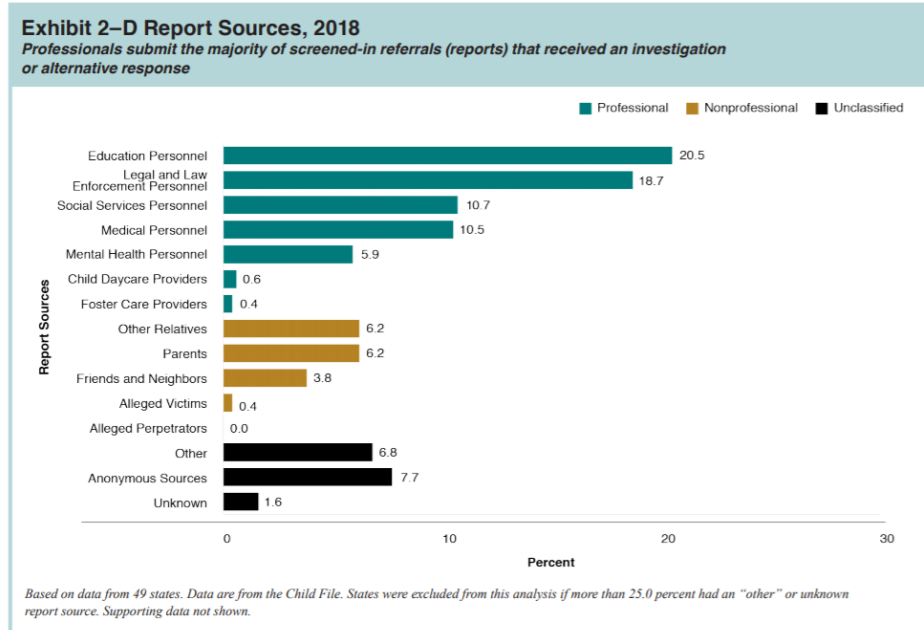


Figure 10. Map of Trafficking Locations in Oregon according to the 2018 Hotline Report.<sup>270</sup>

Despite varying state definitions of child abuse criminal statutes across the country, law enforcement plays an essential role in responding to suspected child abuse incidents. Many states have explicit and elaborate statutes governing the police investigative role and protocols for working with child protective services. Many police departments have created MDTs comprised of police, prosecutors, health and mental clinicians, caseworkers, non-profit agencies, all of whom review child abuse cases and identify effective and tailored responses to each case.<sup>271</sup> Pertinent to this thesis is the CAPTA requirement that states, on an annual basis, must collect and make available child abuse and neglect reporting. CAPTA provides federal funding that allows states to enforce applicable laws and provide services

<sup>270</sup> Source: Stedt, *Child Maltreatment* 2018, 12.

<sup>271</sup> Hammond et al., *Law Enforcement Response to Child Abuse*, 2.

to victims of abuse in a comprehensive and multidisciplinary manner.<sup>272</sup> In 1971, Oregon adopted a state law that framed the duties and roles of the state CPS agencies working jointly with local law enforcement to investigate and respond to child abuse reports.<sup>273</sup> By 1975, each state had committed to creating statewide Child Welfare Services departments, a precursor of what today are known in many states as CPS.<sup>274</sup> CPS agencies serve as clearinghouses for child abuse and neglect reporting and are also tasked with conducting child abuse investigations and follow-up.<sup>275</sup> In 1992, the PPB Child Abuse Team (PPB CAT) was established to investigate child abuse incidents.<sup>276</sup> Presently, the PPB has adopted a MDT model in investigating child abuse incidents and serving victims of abuse that comprises PPB detectives, partners with the District Attorney's Office, Department of Human Services caseworkers, and Child Abuse Response and Evaluation Services (CARES) Northwest.<sup>277</sup> The MDT model of providing wrap-around services to the victims and their families is essential for addressing a child victim's needs through educational and emotional support. The federal anti-child abuse legal framework prompted state stakeholders to engage and integrate their services proactively to address the problem of child abuse collectively. A series of measures, such as the creation of the CPS and the MDTs, clearly illustrate an improved and coordinated strategy to respond to child abuse.

### **C. CHILD ABUSE AND NEGLECT DATA COLLECTION INFRASTRUCTURE**

Capturing the true scope of child abuse and neglect is quite challenging because of the hidden nature of the crime and vulnerability profile of child abuse victims. However, as a result of 40 plus years of social justice advocacy and legislative reforms, several

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<sup>272</sup> Stedt, *Child Maltreatment* 2018, 16.

<sup>273</sup> Oregon Department of Human Services, "Child Protective Services (CPS)."

<sup>274</sup> John E. B. Myers, "A Short History of Child Protection in America," *Family Law Quarterly* 42, no. 3 (Fall 2008): 455, <https://www.jstor.org/stable/25740668>.

<sup>275</sup> Findlater and Kelly, "Child Protective Services and Domestic Violence," 86.

<sup>276</sup> "History of the Portland Police Bureau," City of Portland, Oregon, accessed June 23, 2020, <https://www.portlandoregon.gov/police/40004>.

<sup>277</sup> "Child Abuse Team (C.A.T.)," City of Portland, Oregon, accessed June 23, 2020, <https://www.portlandoregon.gov/police/article/435145>.

platforms for data collection and analysis now exist, including the National Child Abuse and Neglect Systems Database (NCANDS), a central federal data repository; the FBI UCR, and the NVCS.<sup>278</sup> Those data platforms provide a foundation for the annual analysis of reported incidents, provide evidence-based guidance for further assessing victims' needs, and tailor adequate responses to combating these crimes.

While CAPTA helped establish definitional standards on child abuse and criminal acts of child abuse and neglect, it also helped create a data collection and sharing platform. CAPTA provisions directed the HHS to collect data and analyze child abuse and neglect incidents across the nation.<sup>279</sup> In 1988, the Administration on Children, Youth, and Families established the NCANDS.<sup>280</sup> Since CAPTA requires states to collect child-abuse data from law enforcement and child protective services agencies, states submit to NCANDS all available "case-level" data on child abuse and neglect annually. The state data contains comprehensive records from CPS agencies that include data on demographics of victims and perpetrators, types of abuse, risk factors, and investigative findings.<sup>281</sup> Such a centralized and streamlined data repository prevents data collection and sharing silos practices and provides evidence for analysis and assessment.

According to the CAPTA Reauthorization Act of 2010, states must also report and submit to NCANDS all child abuse incidents involving minor commercial sex trafficking victims.<sup>282</sup> Although not all states have integrated this CAPTA requirement, 27 states identified and reported 741 child abuse cases involving child sex trafficking victims.<sup>283</sup> Ms. Sally Flanzer, a former Director of the Data, Research and Innovation, Children's Bureau, highlighted the role of data collection in policy responses, "Data collection provided the foundation for everything else. It gave us findings that we could look at,

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<sup>278</sup> Stedt, *Child Maltreatment 2018*, 10.

<sup>279</sup> Children's Bureau, "National Child Abuse and Neglect Data System (NCANDS)."

<sup>280</sup> Stedt, *Child Maltreatment 2018*, 10.

<sup>281</sup> Anne Petersen, Joshua Joseph, and Monica Feit, *New Directions in Child Abuse and Neglect Research* (Washington, DC: National Academies Press, 2014), 191.

<sup>282</sup> Stedt, *Child Maltreatment 2018*, 86.

<sup>283</sup> Stedt, 87.

numbers, so we could ask “does this look like what’s happening in your state?” Regional staff that learned to use the data were given a tremendous tool to assist states to improve their programs.”<sup>284</sup> Such reliable statistical data is vital to policymakers, not least because such data ensures that they have the information necessary to evaluate responses, programs, and measures intended to address child abuse and neglect issues and provide services to victims.

Mandatory reporting laws prompted and engaged a multi-professional team to intervene and identify child abuse victims by reporting to police and state child protective services. These laws created pathways for interagency collaboration and enhanced awareness and data collection. Such data furthered scholarly and medical research, which evaluated the existing prevention programs to inform policymakers based on accurate and comprehensive data.

#### **D. CONCLUSION**

The examination of domestic violence and child abuse mandatory reporting legislative changes provided insights into how local and state law enforcement agencies improved their responses to combating family violence-based crimes. One of the most significant implications of these federal mandates was that they prompted police agencies to develop comprehensive internal protocols and procedures for responding to domestic violence and child abuse crime. As illustrated in the PPB case, these mandatory policies and protocols require police agencies to document and report all suspected domestic violence incidents and child abuse, collect, analyze, and share data and information with adequate state agencies, and collaborate with victim service agencies. Such enhancement in policies and procedures significantly improved domestic violence and child abuse data collection systems, which resulted in a more informed and evidence-based response to combating these crimes.

Another significant change stemming from the legislative change was the implementation of state-mandated training and education for law enforcement on domestic

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<sup>284</sup> National Child Abuse and Neglect Training and Publications Project, *The Child Abuse Prevention and Treatment Act*, 61.



violence and child abuse issues. Police officers receive training on a typology of abuse, reporting barriers, and victim-informed investigative procedures. In practice, these legislative reforms caused a cultural shift within police agencies and removed cultural blinders, as Amy Farrell points out, to understanding family violence. Consequently, such matters are no longer regarded as private family issues but as criminal acts and cases of criminal justice, public health, and human rights.

## **IV. OVERVIEW OF COMMERCIAL SEX TRAFFICKING TRENDS IN OREGON**

This chapter introduces the commercial sex trafficking problem in Oregon by examining the state's current criminal justice response framework governing human trafficking. This chapter consists of four sections. The first section examines the scope and the nature of commercial sex trafficking in rural and metro parts of Oregon. The second section analyzes the typology of trafficking victims and cycles of abuse and barriers to reporting crimes to the police. The third section of this chapter provides an overview of state commercial sex trafficking legislative frameworks and strategies. The last section of this chapter analyzes the local and state law enforcement agencies' policies and practices pertaining to responding to sex trafficking crimes. By discussing how the PPB changed policy and protocols for investigating sex trafficking incidents, this chapter analyzes how the criminal justice system adapted to and implemented legislative changes in addressing sex trafficking. Specifically, this chapter examines law enforcement agencies that underwent institutional reforms in identifying, documenting, and understanding the issue of sex trafficking crimes. It also aims to identify how the nature and cycle of victimization of sex trafficking victims intersect domestic violence and child abuse, as discussed in the previous chapter.

### **A. NATURE AND THE SCOPE OF THE COMMERCIAL SEX TRAFFICKING PROBLEM**

This section overviews the nature and the prevalence of commercial sex trafficking in Oregon and focuses on examining the typology of sex industries in both rural and metro areas.

#### **1. Typology of Sex Trafficking in Rural Areas**

As discussed in Chapter II, accurately measuring the extent of the sex trafficking problem in the State of Oregon is difficult due to a lack of data collection platforms, inadequate interagency coordination, and the hidden nature of sex trafficking crimes. However, several significant studies by local academic and government organizations have

contributed to an increased understanding of Oregon's sex trafficking problem. In 2010, the International Human Rights Clinic at Willamette University College of Law published the first comprehensive study on Oregon's human trafficking problem.<sup>285</sup> This study highlighted well-hidden yet emerging trends in commercial sex trafficking and exploitation of adults, as well as the growing phenomenon of underage sex trafficking victims.

The Willamette report showed the prevalence of commercial sex trafficking in the metro and rural parts of the state and analyzed the unique nature of the state's geographical and socio-economic diversity related to sex trafficking dynamics. For example, evidence pinpointed the prevalence of poverty-stricken communities in rural and remote parts of Oregon, specifically, Native American reservations being targeted for illicit sex trafficking and recruitment of young vulnerable victims into commercial trafficking.<sup>286</sup> Research and victim testimonials attest to young people being exploited for child pornography and young women and girls for sex trafficking in rural areas.<sup>287</sup> For example, in 2009, the Southern Oregon High-Tech Crimes Task Force reported a "29% increase in crimes involving child pornography and child sexual exploitation."<sup>288</sup> While those rural areas may not have the same illicit sex industry infrastructure as in the metro areas, the Southern Oregon Taskforce report indicates the pervasiveness of sex trafficking.

In contrast to typical trafficking practices in the metro areas, sex trafficking in remote rural areas, particularly minors, has migrated exclusively to the online/internet-based realm, which makes detection and disruption very challenging for law enforcement.<sup>289</sup> Since these remote areas are geographically isolated, with limited police services and proactive patrolling, it creates opportunities for trafficking of an at-risk demographic.<sup>290</sup> It also raises concerns for increasing awareness and resource allocation to

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<sup>285</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 2.

<sup>286</sup> Maloney-Dunn and Skinner, 3; International Human Rights Clinic, *Human Trafficking & Native Peoples in Oregon: A Human Rights Report* (Salem, OR: Willamette University College of Law, 2014), 44, <https://willamette.edu/law/pdf/hrc/human-trafficking-native-peoples.pdf>.

<sup>287</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 3.

<sup>288</sup> Maloney-Dunn and Skinner, 3.

<sup>289</sup> Maloney-Dunn and Skinner, 3.

<sup>290</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 7.

anti-trafficking public campaigns and strategic response planning and interagency collaboration, especially since rural counties in Oregon receive insufficient funding for their law enforcement agencies.<sup>291</sup>

## **2. Typology of Sex Trafficking in the Metro Areas**

Commercial sex trafficking in metro areas, such as Portland and the Eugene/Corvallis corridor, is shaped by the densely populated central business and financial districts. Evidence shows that commercial sex trafficking in metro areas is prevalent in street prostitution, illicit sex clubs, strip joints, massage parlors, escort services, and the burgeoning field of internet-based operations.<sup>292</sup> For example, as of 2015, the Portland metro area features the highest concentration of sex industry venues in Oregon and in the United States.<sup>293</sup> In this context, this area's 54 strip clubs represent the highest number of such establishments per capita of any state in the country.<sup>294</sup> Since a unique clause in the Oregon Constitution frames nudity as a form of expression, it creates a legal environment for the lawful sex industry to thrive since nude dancing in strip clubs is not illegal.<sup>295</sup> The Portland legal sex industry, according to Multnomah County Senior District Attorney J.R. Ujifusa, "provides grooming opportunities for traffickers...even though many of these are legal sex industries, some of them also have a thriving illegal activity in them as well."<sup>296</sup> Therefore, unsurprisingly, the Portland metro area is regarded as "a hub for sex trafficking," specifically related to sex trafficking of underage victims.<sup>297</sup> In both 2008 and 2009, Portland was ranked second in the nation in identifying minor victims forced into sexual exploitation, as reflected via data collected through yearly law

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<sup>291</sup> Oregon Advisory Committee, 27.

<sup>292</sup> "Sex Trafficking," National Human Trafficking Hotline, accessed August 27, 2020, <https://humantraffickinghotline.org/type-trafficking/sex-trafficking>.

<sup>293</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 7.

<sup>294</sup> Lizzy Acker, "Portland Is Still the Strip Club Capital of America," *Willamette Week*, June 19, 2015, <https://www.wweek.com/portland/blog-33364-portland-is-still-the-strip-club-capital-of-america.html>.

<sup>295</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 7.

<sup>296</sup> Oregon Advisory Committee, 15.

<sup>297</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 2.

enforcement operations.<sup>298</sup> With the advent of the digital era and the increasing importance of social media activity, the bulk of the sex industry entertainment industry's infrastructure, as well as a large percentage of illicit sex industry operations, migrated online. For example, the data shows that, as of 2017, "there are roughly 11,000 attempts to purchase sex online each week in Portland."<sup>299</sup> The expansion of illicit sex trafficking operations to online platforms creates significant challenges for law enforcement and prosecutors to identify criminal acts and victims and to tailor their investigative protocols and procedures to target new criminal conduct venues, the internet.<sup>300</sup>

In 2013, the United States Attorney's Office in Oregon commissioned PSU to conduct a pioneering study on Commercial Sexual Exploitation of Children (CSEC) in the Portland metro area. The study collected and analyzed trafficking data and, for the first time, uncovered the scope of the sex trafficking of minors in Portland.<sup>301</sup> The PSU study highlighted information collected by the Department of Human Services, indicating that a total of 469 child victims of sex trafficking were identified during the period 2009–2013.<sup>302</sup> This research not only highlighted the prevalence of sex trafficking but also, more importantly, represented the first academic study to illuminate profiles and demographics of trafficked minors. Such information and reporting highlight a need for more proactive engagement and prevention efforts by local law enforcement and service providers.

Research indicates the I-5 corridor, an interstate freeway system that runs from the southern border of California through Oregon and Washington to Canada, plays a vital role in facilitating the illicit sex trafficking of minors.<sup>303</sup> Interestingly, the I-5 and I-84 freeways

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<sup>298</sup> Maloney-Dunn and Skinner, 2.

<sup>299</sup> "Preventing Human Trafficking in Multnomah County," Multnomah County District Attorney, March 2020, <https://www.mcda.us/index.php/news/multnomah-county-district-attorneys-office-human-trafficking-team/>.

<sup>300</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 25.

<sup>301</sup> Christopher Carey and Lena Teplitsky, "Commercial Sexual Exploitation of Children (CSEC) in the Portland Metro Area" (research memorandum, Portland, OR: Portland State University, August 5, 2013), 1, [https://www.justice.gov/sites/default/files/usao-or/legacy/2013/10/29/the\\_csec\\_report.pdf](https://www.justice.gov/sites/default/files/usao-or/legacy/2013/10/29/the_csec_report.pdf).

<sup>302</sup> Carey and Teplitsky, 3.

<sup>303</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 4.

are major “sex trafficking routes between Seattle, Los Angeles, and Las Vegas.”<sup>304</sup> According to survivors of child sex trafficking, pimps and traffickers call the I-5 corridor the “kiddy track” due to the high volume of sex trafficking victims transported between states.<sup>305</sup> Since the freeway corridor is identified as a critical infrastructure in human trafficking, law enforcement agencies can enhance routine traffic patrol and collaborate with service providers on educational and prevention campaigns and messaging in the communities along the corridor to raise general public awareness of sex trafficking.

### **3. National Human Trafficking Hotline Sex Trafficking Profile of Oregon**

The NHTH produced a report concerning 2018 trafficking trends in Oregon, which included a map identifying reported and suspected Oregon trafficking incidents for that year. Figure 11 is a heat map showing reported cases of sex trafficking to the NHTH in 2018. Areas on the map that contain more shading of red illustrate a greater number of reported cases.<sup>306</sup> While few registered areas of sex trafficking are in the far Eastern part of the state, most identified locations are along the I-5 corridor, which thus confirms the “kiddy track” framing by victims. The map also shows a registered incident and along the Oregon coastline that has a thriving tourism industry.<sup>307</sup>

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<sup>304</sup> Maloney-Dunn and Skinner, 3.

<sup>305</sup> “Redemption Ridge: Redeeming Lives, Restoring Hope,” Redemption Ridge, accessed August 2, 2020, <http://redemptionridge.org/>.

<sup>306</sup> National Human Trafficking Hotline, *Oregon Spotlight: 2018 National Human Trafficking Hotline Statistic* (Washington, DC: Polaris, 2019), 1, <https://humantraffickinghotline.org/sites/default/files/OR-2018-State-Report.pdf>.

<sup>307</sup> National Human Trafficking Hotline, 1.



Figure 11. NHTH 2018 Trafficking Report Illustrating Sex Trafficking Locations in Oregon in 2018.<sup>308</sup>

In addition to scholarly research on trafficking trends in Oregon, the NHTH trafficking data collections and analyses provide credible and comprehensive information on both the scope of trafficking and the demographics of trafficking victims and involved industries in the State of Oregon.<sup>309</sup> According to this reporting, 3,099 trafficking cases, both labor and sex trafficking, have been recorded in Oregon since 2007.<sup>310</sup> Table 1 shows the total number of trafficking cases reported to the hotline, as well as a breakdown of Oregon sex trafficking data during the period 2016–2019.<sup>311</sup>

<sup>308</sup> Adapted from National Human Trafficking Hotline, 1.

<sup>309</sup> “National Human Trafficking Hotline: Oregon,” National Human Trafficking Hotline, 2019, <https://humantraffickinghotline.org/state/oregon>.

<sup>310</sup> National Human Trafficking Hotline.

<sup>311</sup> National Human Trafficking Hotline.

Table 1. National Human Trafficking Hotline Data on Reported Trafficking Cases in Oregon from 2016–19.<sup>312</sup>

Years 2016–2019	# of Trafficking Reported Cases	# of Sex Trafficking Reported Cases
2016	79	56
2017	83	56
2018	133	100
2019	132	94

According to *Human Trafficking in Oregon: A Report of the Oregon Advisory Committee to the U.S. Commission on Civil Rights*, “there were 327 minors trafficked, 1027 adults trafficked, 901 suspected traffickers and 231 purchasers placed in custody as of December 2017.”<sup>313</sup> It appears that despite increased public and government awareness, the problem of illicit sex trafficking continues to thrive in Oregon. A 2020 report co-authored by the DOJ and the DHS also provides an additional sex trafficking data set and offers insights into the scope of the problem. According to the data, 746 trafficking victims were identified in Oregon from October 2018 to October 2019.<sup>314</sup>

## B. TYPOLOGY OF SEX TRAFFICKING VICTIMS

Sex trafficking is a hidden crime that occurs in streets, brothels, massage parlors, strip clubs, and on the internet. Understanding victims’ typology, vulnerability factors, and recruitment platforms are essential for a timely and successful prevention and interdiction by law enforcement and service providers.<sup>315</sup> This section offers insights into victims’ profiles and barriers to report crimes and seek assistance.

<sup>312</sup> Source: National Human Trafficking Hotline.

<sup>313</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 14.

<sup>314</sup> Oregon Department of Human Services, *Oregon DOJ and DHS to Release New Data on Human Trafficking across Oregon* (Salem, OR: Oregon Department of Human Services, 2020), 2, <https://www.oregon.gov/dhs/DHSNEWS/NewsReleases/Trafficking-Awareness-2020.pdf>.

<sup>315</sup> Robert Moossy, “Sex Trafficking: Identifying Cases and Victims,” *NIJ Journal*, no. 262 (March 2009): 3, <https://nij.ojp.gov/library/publications/sex-trafficking-identifying-cases-and-victims>.



## 1. Who Are the Victims? The Vulnerability of Sex Trafficking Victims

As far as sex trafficking victims' typology is concerned, historically speaking, the criminal justice system has conflated sex workers and sex trafficking victims. Research and victim advocacy groups categorize sex workers as those individuals who willingly engage in commercial sex acts, e.g., providing sex acts in exchange for monetary value or other services, which relevant criminal statutes define as the crimes of prostitution. However, they are not victims of abuse, coercion, or fraud. In contrast, sex trafficking victims are forced into trafficking by force, fraud, or coercion, and suffer from abuse and exploitation. Commonly, however, "prostitutes" frequently become victims of sex trafficking as a result of the coercive and abusive actions of traffickers.<sup>316</sup> Therefore, understanding the relevance of victims' stereotypes and examining how the criminal justice system treats and differentiates sex trafficking victims from those who willfully engage in prostitution-related offense acts can help identify police response gaps in addressing sex trafficking. Taking into account the considerable intersectionality between victims' exposure to trauma and abuse, police officers need skills and training tools to identify underlying trafficking factors.

Data collected to date suggests that victims of sex trafficking in Oregon, as appears to be the case throughout the United States, come from all conceivable socio-economic, cultural, and ethnic backgrounds. Evidence shows that sex trafficking victims encompass both adult and minor victims, homeless youths, Native Americans, and vulnerable sexual minority demographics, such as people who self-identify as lesbian, gay, bisexual, transgender, and queer.<sup>317</sup> Among the most prevalent demographics of sex trafficking victims are homeless, foster, and runaway youth.<sup>318</sup> Since many in this demographic are victims of child abuse and neglect, have witnessed domestic violence, and lack safety and support structures, they are incredibly vulnerable to criminal street gangs' recruitment and

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<sup>316</sup> Farrell, Pfeffer, and Bright, "Police Perceptions of Human Trafficking," 316.

<sup>317</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 15.

<sup>318</sup> D.A. Gibbs et al., *Report to Congress: The Child Welfare System Response to Sex Trafficking of Children* (Washington, DC: Department of Health and Human Services, Administration for Children and Families, 2019), 34, [https://www.acf.hhs.gov/sites/default/files/cb/report\\_congress\\_child\\_trafficking.pdf](https://www.acf.hhs.gov/sites/default/files/cb/report_congress_child_trafficking.pdf).

exploitation in the sex industry.<sup>319</sup> According to the 2013 PSU study, out of 469 trafficked minors in Portland, 49.1 percent of victims had a criminal gang nexus, which highlights the prevalence of gangs' involvement in sex trafficking. In addition, family members exploited approximately 11 percent of trafficked minors, and about 19.9 percent of trafficked victims come from abusive families with a history of exploitation.<sup>320</sup> Specialty police units, such as domestic violence, child abuse, gang team, and social service providers, benefit from understanding which victims' demographic is at risk. Learning about victim demographics can increase the chances that these specialty units, which serve and intersect with the at-risk population in the course of their primary duties, can identify these victims. The following "Case of Rebecca, A Middle-Class Recruit" is a brief illustration of a real-life sex trafficking survivor's recruitment and exploitation.

Not all victims of sex trafficking come from abusive and poverty-stricken homes. After giving birth to her child, Rebecca Bender was a young woman who had to leave college and return to her rural hometown in southern Oregon, where she started dating a man who "was charming and funny."<sup>321</sup> Six months later, Rebecca moved in with her boyfriend, who, after a honeymoon cycle of grooming, forced her into sex trafficking. Rebecca was sold to three different traffickers in the following six years and suffered from severe post-traumatic stress disorder caused by prolonged phases of physical, mental, and sexual violence. Traffickers branded her (i.e., forcibly tattooed their names on her body to "brand her" as their property) and repeatedly inflicted physical beatings on her that resulted in facial injuries and hospitalization. In addition, Rebecca was arrested and incarcerated on several occasions. Eventually, an FBI raid of the apartment complex in which she was being held led to her rescue and subsequent recovery.<sup>322</sup> Rebecca's story highlights that any person, regardless of their socio-economic background, can fall into the abyss of sex trafficking exploitation and victimization.

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<sup>319</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 8.

<sup>320</sup> Carey and Teplitsky, "Commercial Sexual Exploitation of Children," 4.

<sup>321</sup> "Rebecca Bender: I Was Trafficked in Plain Sight," *Thorn* (blog), January 2, 2018, <https://www.thorn.org/blog/rebecca-bender-trafficked-plain-sight/>.

<sup>322</sup> "Rebecca Bender."

## 2. The Abuse, Cycle of Power, and Control of Sex Trafficking Victims

The story of Rebecca, now a leading anti-trafficking advocate and educator, reflects the experiences of many young women who become victims of domestic commercial sex trafficking. The story highlights the methodology and patterns of abuse, manipulation, and control used by traffickers to identify vulnerable victims and subject them to exploitation and emotional deceit.<sup>323</sup> Many survivors have stated that their victimization by traffickers began with gifts, attention, and promises of emotional safety, as well as a better life and economic security. Field practitioners call this a “grooming” phase, which is “the slow, methodical, and intentional process of manipulating a person to a point where they can be victimized.”<sup>324</sup> It is important for law enforcement and service providers to understand the gravity and impact of trafficking abuse and control as a foundational barrier for victims to report and participate in police interviews or investigations. Such a degree of vulnerability that trafficking victims are exposed to can serve as a roadblock and failure in recognizing these vulnerabilities and can also serve as a roadblock for police officers to build rapport and empathy with a trafficking victim. Knowing that a grooming phase is a tactic and a strategy traffickers use can help police officers to adopt trauma-informed interviewing skills and work closely with a victim advocate to address the victim’s trauma.<sup>325</sup>

Survivors detail how gang members are particularly savvy in victim grooming methodologies; they shower their victims with expensive gifts, travel opportunities, and attention.<sup>326</sup> Moreover, they engage in intimate relationships and even have children with trafficking victims to create an emotional bond. Such grooming practices are common among traffickers. As victims have stated, engaging in intimate relations with traffickers,

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<sup>323</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 66.

<sup>324</sup> Emily Becker, “Grooming: Is R. Kelly Using the Same Tactics as Human Traffickers to Control His Victims?,” *Grooming and Sex Trafficking* (blog), March 11, 2019, <https://www.ecpatusa.org/blog/tag/Grooming+and+Sex+Trafficking>.

<sup>325</sup> Police Executive Research Forum, *How Local Police Can Combat the Global Problem of Human Trafficking: Collaboration, Training, Support for Victims, and Technology Are Keys to Success* (Washington, DC: Police Executive Research Forum, 2020), 38, <https://www.policeforum.org/assets/CombatHumanTrafficking.pdf>.

<sup>326</sup> Stephen C. Parker and Jonathan T. Skrmetti, “Pimps Down: A Prosecutorial Perspective on Domestic Sex Trafficking,” *University of Memphis Law Review* 43, no. 4 (2012): 1019, HeinOnline.

and having children with them, creates the illusion of an intimate, domestic-like relationship.<sup>327</sup> Creating such an illusion of an intimate relationship serves as a barrier for trafficking victims to seek help and especially report their abuse and traffickers. Similar to cycles of abuse and reporting barriers that domestic violence victims face, trafficking victims create strong emotional bonds and attachments with their traffickers that prevent them from breaking the cycle of abuse and victimization. Instead, they continue to remain trapped in vicious cycles of violence.

In addition, due to their lifestyle, victims fear losing custody of their children when getting involved with state services. In many instances, the trafficker threatened to take the child away as leverage for the victim to remain in a trafficking situation. As illustrated in Rebecca's story, traffickers are often persons of trust or even family members. According to the previously cited 2013 PSU study, a family member exploited about 11.1 percent of trafficked youth.<sup>328</sup> However, after the initial phase of grooming, traffickers often resort to using physical and sexual violence to control their victims and dehumanize them.<sup>329</sup> According to a research study conducted by the Council for Prostitution Alternatives in Portland, "81 percent of women in the program had been victims of aggravated assault and 43 percent had been physically abused or tortured by both traffickers and solicitors of trafficking."<sup>330</sup> According to another study, about 33 percent of sex trafficking victims were subjected to a "sadistic sex act," and in 44 percent of cases, traffickers used a weapon against victims.<sup>331</sup> Exposure to volatile and abusive living and working conditions further contributes to victims' mental and physical health state. Per data collected by the Council for Prostitution Alternatives, about 65 percent of sex trafficking victims had attempted suicide due to prolonged abuse and mistreatment by traffickers and the nature of

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<sup>327</sup> Farrell et al., *Identifying Challenges*, 83.

<sup>328</sup> Carey and Teplitsky, "Commercial Sexual Exploitation of Children," 4.

<sup>329</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 67.

<sup>330</sup> Donna M. Hughes, *Best Practices to Address the Demand Side of Sex Trafficking* (Kingston, RI: University of Rhode Island, 2004), 11, [https://works.bepress.com/donna\\_hughes/20/](https://works.bepress.com/donna_hughes/20/).

<sup>331</sup> Hughes, 12.

trafficking.<sup>332</sup> Figure 12 shows combined data on various forms of trauma, types of abuse, and implications on mental health as reported by sex trafficking victims.

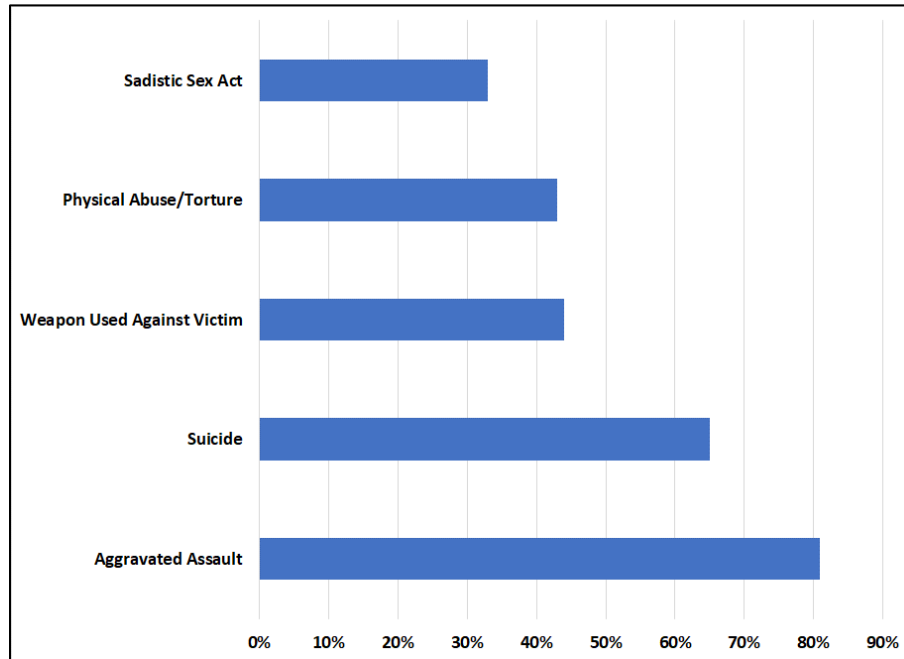


Figure 12. Reported Experiences from Victims of Trafficking.<sup>333</sup>

Understanding the degree of victims' exposure to violence and its impact on their physical and mental health is critical to implementing victim-centric and trauma-informed interviewing and treatment of victims by criminal justice stakeholders. It also indicates an extremely violent and terror-like nature and methodology traffickers use to control and force victims. As mentioned previously, the data also dispels the popular myth that trafficking and even prostitution are "victimless" crimes; it shows human trafficking is an issue of crime but, above all, a public health, gender inequity, and human rights issue.<sup>334</sup>

<sup>332</sup> Hughes, 4.

<sup>333</sup> Adapted from Hughes, 4, 12.

<sup>334</sup> Dominique E. Roe-Sepowitz et al., "Victim or Whore: The Similarities and Differences between Victim's Experiences of Domestic Violence and Sex Trafficking," *Journal of Human Behavior in the Social Environment* 24, no. 8 (2014): 888, <https://doi.org/10.1080/10911359.2013.840552>.

### **3. Why Do They Not Report? Barriers Trafficking Victims Face to Reporting of Sex Trafficking**

As with domestic violence victims, sex trafficking victims suffer from psychological, physical, and emotional violence and are often financially dependent on their traffickers.<sup>335</sup> In addition to inflicting mental and physical abuse on their victims, traffickers sometimes force victims to engage in criminal acts, including fraud, theft, shoplifting, and even robbery. Many trafficking victims have criminal records, whether as a juvenile victim forced to engage in survival sex or as an adult victim forced to break the law as a result of coercion and threats.<sup>336</sup> Robin Miller, a sex trafficking survivor from Portland, poignantly highlights that victims “are wearing the criminal records of our abusers and our exploiters. It looks different, it’s drug trafficking. It might be burglary, all these different things. It’s because we have to stay alive.”<sup>337</sup> Victim testimonials reveal that sex trafficking victims suffer from social stigmas associated with the nature of exploitation and thus do not self-identify as abuse victims.<sup>338</sup> In many cases, victims believed the threats of traffickers that police would arrest them if they reported the abuse and turned against traffickers. All these factors often result in victims’ denial or recognition of their own victimization, which is best illustrated in the following statement by a victim service provider:

Victims also tended to downplay their problems and often failed to see themselves as victims. As one service provider explained: The term “victim” is very common but the term “human trafficking victim” is not, so they may recognize the victimization to some degree but they don’t understand that...In the outreach process when we inquire or ask and have questions, none of them will say “Yes, I am a victim of human trafficking,” but they all realize that in some way something is not right.<sup>339</sup>

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<sup>335</sup> Farrell, Pfeffer, and Bright, “Police Perceptions of Human Trafficking,” 329.

<sup>336</sup> Gibbs et al., *Report to Congress*, 39.

<sup>337</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 16.

<sup>338</sup> Farrell, et al., *Identifying Challenges*, 83.

<sup>339</sup> Phyllis J. Newton, Timothy M. Mulcahy, and Susan E. Martin, *Finding Victims of Human Trafficking* (Bethesda, MD: National Opinion Research Center, 2008), 56, <https://www.ncjrs.gov/pdffiles1/nij/grants/224393.pdf>.

Rebecca’s story illustrates a cascade of interlinked victimization issues: emotional vulnerability, the cycle of violence, the creation of emotional bonds between victims and traffickers, and the emotional and mental state characterized by feelings of despair and entrapment in which victims find themselves. Studies on the cycle of violence and trauma discuss foundational similarities between victims of sex trafficking and domestic violence. Both types of victims undergo stages of abuse, violence, and trauma. Jane Anderson, an attorney who participated in the study on *Combating Human Trafficking*, published by the Police Executive Research Forum (PERF) in 2020, describes the relevance of understanding and acknowledging victim trauma in the context of criminal investigations. She states, “I want to change the language on lack of victim cooperation. We have to understand that their inability to participate is usually not because of them being uncooperative or not wanting to help. It’s the trauma that has been inflicted upon them by the offenders that are making them unable to participate.”<sup>340</sup>

To understand the complexity and impact of trauma on trafficking victims better, scholars and field practitioners traditionally use the Duluth Power Wheel of Abuse model to illustrate the complex cycle of abuse, a tool adopted by the United Nations as part of its collective effort to address human trafficking.<sup>341</sup> Figure 13 represents a wheel of various tactics and abuse and control tools traffickers use to exercise their power over victims, which is very similar to domestic violence abuse and control dynamics, as discussed in Chapter III.

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<sup>340</sup> Police Executive Research Forum, *How Local Police Can Combat*, 34.

<sup>341</sup> Hanna Cody, “Domestic Violence and Human Trafficking,” UNICEF USA, November 15, 2017, <https://www.unicefusa.org/stories/domestic-violence-and-human-trafficking/33601>.



Figure 13. The United Nations Wheel of Abuse for Human Trafficking Victims.<sup>342</sup>

Similar to experiences and barriers domestic violence victims face, studies confirm that sex trafficking victims believe they cannot leave their traffickers due to fear of retaliation, financial dependency on traffickers, and sometimes, for some, even out of love and loyalty to their traffickers.<sup>343</sup> Prolonged victimization and exploitation, interaction with the criminal justice system, and notions of stigma, shame, and guilt constitute barriers to self-reporting of victimization and the identification of victims; these same factors

<sup>342</sup> Source: Hanna Cody, “Domestic Violence and Human Trafficking,” UNICEF USA, November 15, 2017, <https://www.unicefusa.org/stories/domestic-violence-and-human-trafficking/33601>.

<sup>343</sup> Teresa C. Kulig et al., “Victim or Prostitute? The Classification of Commercial Sex Events Involving Minors in the National Incident-Based Reporting System,” *Violence and Victims* 35, no. 3 (2020): 334, <https://doi.org/10.1891/VV-D-19-00060>.



prevent the effective disruption of the trafficking cycle.<sup>344</sup> In the course of the victim's identification, it is critical for law enforcement and service providers to recognize the impact and manifestation of trauma as they serve victims of trafficking in various settings.<sup>345</sup>

### **C. OREGON ANTI-TRAFFICKING LEGISLATIVE FRAMEWORKS ADDRESSING COMMERCIAL SEX TRAFFICKING**

Following a series of national legislative anti-trafficking reforms and enactment of the TVPA in 2000, the Oregon State Legislature adopted its first set of anti-trafficking laws in 2007. Oregon Senate Bill 578 frames anti-trafficking legislation based on the federal anti-trafficking framework of Prevention, Punishment, and Protection, commonly referred to as the 3Ps.<sup>346</sup> Oregon's anti-trafficking legislation criminalizes acts of commercial sex trafficking while also addressing the rights of trafficking victims. The Oregon Revised Statute (ORS), a state penal code, defines the crime of sex trafficking as follows: when a person "knowingly recruits, entices, harbors, transports, provides or obtains by any means," or attempts to do so, and knowingly or recklessly disregards the fact that force, fraud or coercion will be used to cause the other person to engage in a commercial sex act."<sup>347</sup> ORS characterizes a commercial sex act as, "sexual conduct or sexual contact performed in return for a fee or anything of value." A sex trafficking crime is considered a Class A felony for which a criminal sentence can be up to 20 years in prison.<sup>348</sup> The Oregon anti-trafficking legislation provides a foundational framework for implementing newly crafted trafficking statutes and allows law enforcement agencies to utilize additional criminal codes to combat human trafficking in Oregon.

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<sup>344</sup> Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United States* (Washington, DC: National Academies Press, 2013), 3.

<sup>345</sup> Police Executive Research Forum, *How Local Police Can Combat*, 26.

<sup>346</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 33.

<sup>347</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 11.

<sup>348</sup> Oregon Advisory Committee, 11.

## **1. Prevention and Victim's Assistance Legislative Framework**

The State of Oregon legislative efforts to prevent human trafficking focus on training and education, public campaigns, research, and even mandating that specific businesses display anti-trafficking information and resource materials.<sup>349</sup> In addition to enhancing criminal penalties and reinforcing criminal statutes, the Oregon legislature enacted a set of laws addressing trafficking victims' protection, strengthening victims' rights, and access to services, and creating rehabilitation pathways.

Among these victim-centered statutes are: (a) An affirmative defense to the crime of prostitution (ORS 167.007); meaning, if a person is arrested for the crime of prostitution and is found to be a victim of sex trafficking at the time of arrest or conviction, that person can seek to have that conviction vacated, (b) Vacating judgment of conviction for prostitution (ORS 137.221); if a person is a victim of sex trafficking at the time of the offense, the victim has a right to seek the removal of that charge from the record, and (c) Address Confidentiality Program (ORS 192.820); this provision allows both adult and minor victims of trafficking to keep their residential address confidential and not a matter of public record.<sup>350</sup> This victim-centric provision is very important as evidence shows that traffickers often seek their victims through public records requests for victims' residential addresses. Trafficking survivors stated that this provision provides them a degree of security and protection from their traffickers.<sup>351</sup>

Furthermore, the Oregon state legislation of ORS.137.103 allows trafficking victims to seek restitution and economic damages from their traffickers.<sup>352</sup> This statute is significant, as it follows the civil remedies framework for victims of domestic violence.<sup>353</sup> It is very common for both trafficking and domestic violence victims to encounter barriers in testifying against their abusers since victims often depended upon their abusers for

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<sup>349</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 13.

<sup>350</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 10.

<sup>351</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 12.

<sup>352</sup> Maloney-Dunn and Skinner, 37.

<sup>353</sup> Maloney-Dunn and Skinner, 37.

shelter and financial support. The enactment of the civil restitution for victims plays a fundamental role in creating a support system that allows victims to break away from financial dependence and not have it used as leverage against testifying.

## **2. State Anti-Trafficking Legislation Addressing Minor Victims of Sex Trafficking**

In addition to adopting legislation focused on sex trafficking of adults, the Oregon Legislature adopted a host of provisions intended to address minors' sex trafficking. With respect to the latter statute of note is that one section of the statute (ORS 163.266 (1)(c)) explicitly states that a defendant is guilty of sex trafficking if said defendant, "knows or recklessly disregards the fact that the person is under 18, and will be used in a commercial sex act."<sup>354</sup> As Oregon-based scholarly studies indicated, the sex trafficking crimes disproportionately impact minor victims; thus, having enhanced criminal penalties against traffickers of minors allows for harsher sentencing and targeting of traffickers.<sup>355</sup> Such harsh punitive sentencing guideline for traffickers of minors also frames a strong social message of not tolerating the exploitation of a highly vulnerable demographic of children.

Minor victims of sex trafficking do not have to provide proof of force, fraud, or coercion insofar as—by virtue of their legal status as minors—they cannot consent to participate in commercial sex trafficking.<sup>356</sup> Oregon legislation recognizes persons under 18 who are victims of sexual exploitation, such as commercial sex trafficking, purchasing sex with a minor, or commercial sexual solicitation, to be victims of child sex abuse and thus afforded protection under the state Child Abuse Statute.<sup>357</sup> According to mandatory reporting provisions outlined in the prior-referenced Oregon Child Abuse Statute, suspected acts of commercial sex trafficking of minors are categorized as mandatory

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<sup>354</sup> ORS 163.266 Oregon Revised Statutes §, "Trafficking in Persons."

<sup>355</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 1.

<sup>356</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 7.

<sup>357</sup> "Definitions," ORS 419B.005 Oregon Revised Statutes § (2020), <https://www.oregonlaws.org/ors/419B.005>.

reporting incidents, as discussed in the previous chapter.<sup>358</sup> This reporting translates into practice because police officers, in tandem with other state-designated mandatory reporters, must document incidents of suspected minor sex trafficking, notify child welfare agencies of such incidents, and connect the minor victims of sex trafficking with victim support services.<sup>359</sup> In addition, mandatory reporting allows police agencies to collect, track, and analyze data related to sex trafficking necessary for further assessment of sex trafficking trends, resource allocations, and tailoring future training on the sex trafficking of minors.

As part of the federal mandate put forth by the Preventing Sex Trafficking and Strengthening Families Act of 2014, the Oregon Department of Human Services oversees a program that addresses minors' sex trafficking.<sup>360</sup> This prevention program entails, together with other components, mandatory training for social welfare workers regarding various aspects of the sex trafficking of minors: screening, documentation, reporting, and identification of potential victims.<sup>361</sup> The proactive role of this department in identifying sex trafficking victims is critical to a larger statewide effort to address the scope and nature of the sex trafficking problem.

Furthermore, the Attorney General's Office, in accordance with a state legislative mandate, established a Trafficking Intervention Advisory Committee to develop statewide response and assistance protocols for sex trafficking victims. As a result, nine regional anti-trafficking taskforces are currently operating in the state of Oregon.<sup>362</sup> Although social justice advocates continue to promote improvement in and enhancement of victim protection statutes, the Oregon legislature has made great strides in developing and

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<sup>358</sup> Oregon Department of Human Services, *What Can You Do about Child Abuse?* (Salem, OR: Oregon Department of Human Services, 2020), 23, <https://sharedsystems.dhsoha.state.or.us/DHSForms/Served/de9061.pdf>.

<sup>359</sup> Oregon Department of Human Services, 23.

<sup>360</sup> "Preventing Sex Trafficking and Strengthening Families Act," Strategic Planning and Policy Development, accessed September 6, 2020, <https://ocfs.ny.gov/main/sppd/preventing-trafficking.php>.

<sup>361</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 23.

<sup>362</sup> Oregon Advisory Committee, 21.

implementing a platform for combating sex trafficking, specifically in the arena of the mandatory reporting of minor victims of sex trafficking.

#### **D. LAW ENFORCEMENT’S TRADITIONAL RESPONSE TO COMBATING SEX TRAFFICKING**

Prior to the passage of federal anti-trafficking laws in 2000, American LEAs’ understanding and identification of sex trafficking focused on the enforcement of prostitution-based criminal statutes.<sup>363</sup> The criminal statute of prostitution defined as when “the person engages in, or offers to engage in, sexual conduct or sexual contact in return for a fee,” has a close nexus to the sex trafficking statutes in the context of a criminal investigation but also victim identification by law enforcement.<sup>364</sup> The traditional police approach was essentially reactionary in nature; departments responding to community complaints about prostitution activities occurring in specific neighborhoods or officers addressing situations encountered in the course of their routine patrol duties.<sup>365</sup> The relevance of prostitution-based criminal statutes is that historically, police agencies enforced those statutes to eradicate street-level illegal prostitution using periodic vice missions and undercover sting operations. During such operations, officers typically arrested all suspected and involved parties, including “prostitutes,” “johns” (i.e., persons who paid or offered to pay for sex services), and “pimps,” subjects responsible for “running” the prostitutes.<sup>366</sup> While the acts of prostitution are illegal, and the parties involved subject to criminal penalties, police officers, in general, did not “look beneath the surface” to determine if either pimps or johns used or threatened to use force or physical and sexual violence against prostitutes.<sup>367</sup> Evidence shows that in many cases, by arresting prostitutes and treating them as suspects, police officers failed to identify, recognize, and treat them as victims of abuse and exploitation. To put it simply, police officers viewed

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<sup>363</sup> Farrell, Pfeffer, and Bright, “Police Perceptions of Human Trafficking,” 319.

<sup>364</sup> “Prostitution,” ORS 167.007 Oregon Revised Statutes § (2020), <https://www.oregonlaws.org/ors/167.007>; Oregon Advisory Committee, *Human Trafficking in Oregon*, 12.

<sup>365</sup> Farrell, Pfeffer, and Bright, “Police Perceptions of Human Trafficking,” 324.

<sup>366</sup> Farrell, Pfeffer, and Bright, 323.

<sup>367</sup> Police Executive Research Forum, *How Local Police Can Combat*, 5.

and treated street prostitutes as criminals, or as those who broke the law.<sup>368</sup> Such cultural attitudes toward prostitutes are deeply rooted in police culture, which is reinforced by the police treating the victim as “bad” vs. “good.” As evidence shows, such police attitudes directly influenced how the criminal justice treated prostitutes.<sup>369</sup> In addition, before the enactment of the anti-trafficking legislation, data on trafficking victims exploited in the commercial sex industry was elusive. Many trafficking victims were arrested and misidentified by law enforcement and mistreated by the criminal justice system, and further stigmatized for their involvement in illicit criminal behavior.<sup>370</sup>

### **1. Law Enforcement’s Cultural Shift in Approaching Sex Trafficking Crimes: A Case of the Portland Police Bureau Re-structuring**

A tectonic cultural shift in American law enforcement’s collective understanding of attitudes and operational approaches to sex trafficking crimes came about after the enactment of anti-trafficking laws. This shift also resulted from the development and implementation of the comprehensive training and educational curricula concerning various aspects of the sex trafficking problem: victimology cycles, patterns of abuse, and traffickers’ power and control over their victims.<sup>371</sup> Such institutional strategic and training policy changes addressed gaps in police identification, documentation, and investigation of sex trafficking crimes and enhanced the enhanced police understanding of the sex trafficking issue.

Structural and policy shifts undertaken by the PPB in 2009 serves as an excellent example of local police agencies adopting and implementing sex trafficking statutes and increasing their understanding of the sex trafficking problem. Before 2009, the PPB’s Vice Unit was the investigative unit responsible for conducting criminal investigations of prostitution crimes, which entailed the arrest and prosecution of prostitutes.<sup>372</sup> Following

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<sup>368</sup> Farrell et al., *Identifying Challenges*, 87.

<sup>369</sup> Farrell et al., 220.

<sup>370</sup> Farrell et al., 220.

<sup>371</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 83.

<sup>372</sup> Maloney-Dunn and Skinner, 83.

the 2007 enactment of state anti-trafficking legislation, in 2009, the PPB established a Sex Trafficking Detective Unit. As a result of state-mandated training on the sex trafficking of minors and increased collaboration with victim service agencies, the PPB adopted victim-centric investigative policies that improved the identification and proper categorization of victims.<sup>373</sup> This new investigative unit model required that sex trafficking detectives specialize in trauma-informed interviewing and receive additional training and education on complex cycles of trafficking abuse, control, and barriers victims face to serve trafficking victims better.<sup>374</sup> Such a victim-centric investigative approach improves detectives' ability to build successful criminal investigations against the traffickers.<sup>375</sup>

As a part of its multidisciplinary approach, similar to domestic violence and child abuse response strategies, the PPB hired trafficking victim advocates to work in tandem with police officers. Scholars and practitioners believe that this model of a police-advocate partnership not only promotes victims' rights and access to justice but also aligns with the TVPA framework for combating human trafficking.<sup>376</sup> The adoption of such policies and practices played a key role in transforming investigators' attitudes about sex trafficking victims from criminal perpetrators to that of crime victims.<sup>377</sup> Amy Farrell points out that prior to receiving training and education on the nature of sex trafficking and an opportunity to work with victim advocates, police officers often had negative attitudes toward prostituted subjects and historically viewed them as suspects, and as not victims of exploitation.<sup>378</sup> The shift in police attitudes are best described in the following statement, "And honestly, in reality, law enforcement doesn't work like that in a typical sense, because you know it's like: "Yeah, I'm sorry, you're a victim but we really have to prosecute these cases. Too bad, so sad." So it really helps us focus on them as victims, and repairing their

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<sup>373</sup> "Supporting Victims of Sex Trafficking in Portland," Bureau of Justice Assistance, January 13, 2017, <https://bja.ojp.gov/feature/supporting-victims-sex-trafficking-portland>.

<sup>374</sup> Sarah Ohlsen, *Commercial Sexual Exploitation of Children: A Status Report for Our Jurisdiction* (Portland, OR: Multnomah County, 2015), 7, <https://multco.us/file/38173/download>.

<sup>375</sup> Ohlsen, 7.

<sup>376</sup> Reuland et al., *Police-Community Partnerships to Address Domestic Violence*, 4.

<sup>377</sup> Ohlsen, *Commercial Sexual Exploitation of Children*, 7.

<sup>378</sup> Farrell, Pfeffer, and Bright, "Police Perceptions of Human Trafficking," 326.

life, even more than the prosecution of the case.”<sup>379</sup> Such cultural shifts positively impact a victim’s ability to navigate the justice system successfully and increase the victim’s chance of a more successful recovery.

## **2. Trafficking Victim and Suspect Identification by Law Enforcement**

As a result of collaboration with victim service agencies, the PPB adopted victim-centric investigative policies and protocols that improved the identification and proper categorization of victims. Per PPB policy and directives, when patrol officers encounter a possible victim of sex trafficking in the course of responding to calls for service, they file a police report, which is then forwarded to the Sex Trafficking Unit for further review and follow up.

In addition, as a result of increased awareness of indicators and patterns of trafficking abuse and control, police officers are more skilled in detecting and identifying a trafficking victim, even when presented as a traditional prostitution case. When patrol officers conduct victim-centric interviews during an encounter with a possible trafficking victim, it increases the officers’ chances of adequately identifying a trafficked person as a victim and not a criminal. For example, Figure 14 illustrates a significant improvement in the police identification of female victims since implementing statewide anti-trafficking legislation. The figure shows that from 2010 to 2013, PPB officers drastically reduced the number of arrests of prostitutes and increased the arrest of male suspects. Although prostitution remains illegal in Oregon, with enhanced awareness and victim-centered interviews and investigations, police officers can successfully identify those subjects who are victims of sex trafficking and exploitation and treat them as such, and not as criminals.<sup>380</sup>

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<sup>379</sup> Farrell, Pfeffer, and Bright, 327.

<sup>380</sup> Ohlsen, *Commercial Sexual Exploitation of Children*, 12.



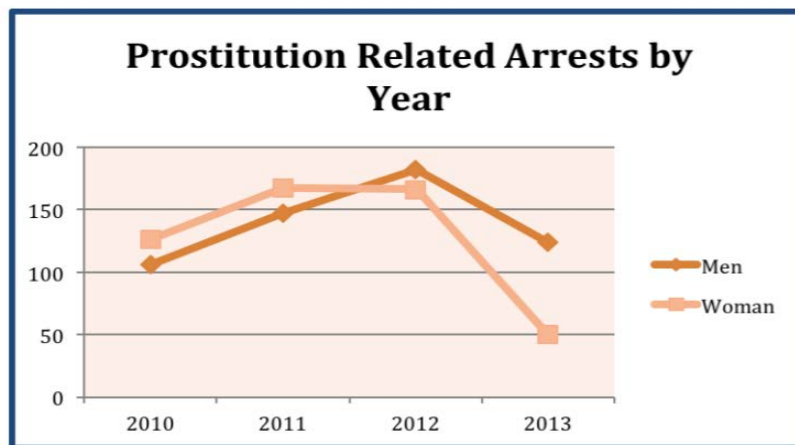


Figure 14. Portland Police Bureau's Prostitution-related Arrests.<sup>381</sup>

Also of note is the Multnomah County Sheriff Office's (MCSO) creation of a Sex Trafficking Intelligence position in the county jail system. It aims to facilitate the collection and analysis of information about incarcerated sex traffickers, develop an intelligence-driven database concerning sex traffickers, and share information in that database with law enforcement counterparts. Figure 15 shows a steady increase in the identification of sex traffickers in the MCSO jail system since the passage of the state anti-trafficking legislation in 2007.<sup>382</sup> Improved identification and documentation of suspected traffickers is vital as traffickers continue to conduct illicit operations even from jail, which allows law enforcement to interdict and initiate criminal cases against traffickers.<sup>383</sup>

<sup>381</sup> Source: Ohlsen, 12.

<sup>382</sup> Ohlsen, 6.

<sup>383</sup> "Preventing Human Trafficking in Multnomah County," Multnomah County District Attorney, 6, March 2020, <https://www.mcda.us/index.php/news/multnomah-county-district-attorneys-office-human-trafficking-team/>.

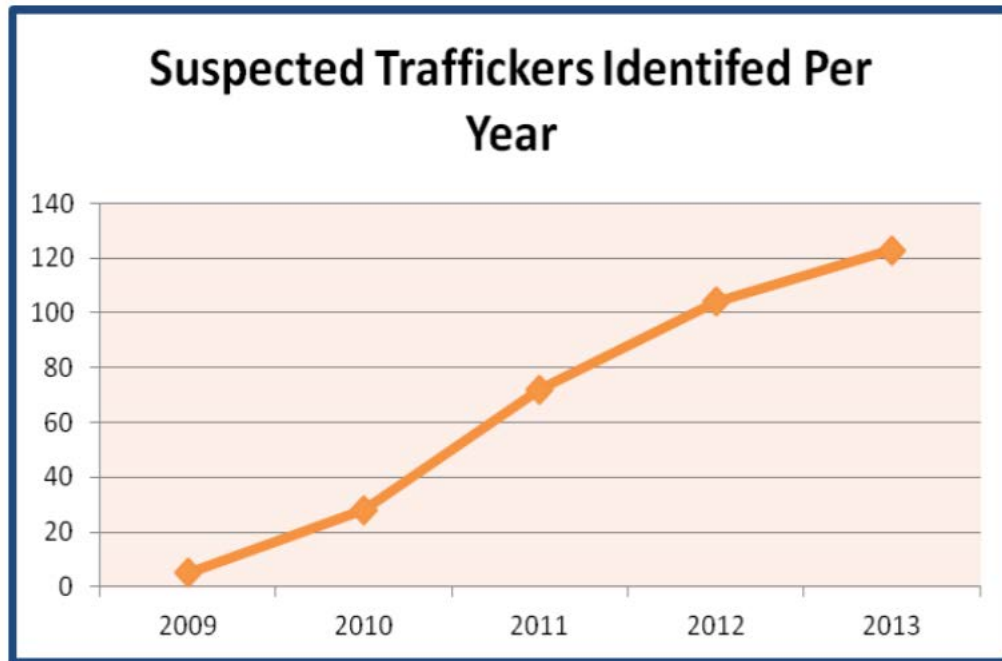


Figure 15. Multnomah County Sheriff's Office Efforts to Identify Sex Traffickers Housed in a Local Jail.<sup>384</sup>

The PPB team is also a part of the Multnomah County District Attorney's Office's (MCDA) regional task force. This group comprises detectives, police officers, victim advocates, parole, and probation officers and works collaboratively to address specific sex trafficking criminal cases. At the same time, task force members work to connect victims with a range of social service providers and advocacy resources.<sup>385</sup> Such collaborative efforts between criminal justice and victim service providers result in an improved and increased rate of prosecution of sex trafficking crimes.<sup>386</sup>

The collective police response to addressing commercial sex trafficking in Oregon has made significant strides since 2000. In addition to the PPB, many police agencies have created special investigative units dedicated to investigating sex trafficking crimes. The Oregon DOJ has established nine anti-sex trafficking task forces throughout the state.

<sup>384</sup> Source: Ohlsen, *Commercial Sexual Exploitation of Children*, 6.

<sup>385</sup> Bureau of Justice Assistance, "Supporting Victims of Sex Trafficking in Portland."

<sup>386</sup> Source: Ohlsen, *Commercial Sexual Exploitation of Children*, 9.

These task forces directly result from DOJ statewide efforts to enhance support systems for sex trafficking victims and promote law enforcement cooperation and information sharing regarding sex trafficking criminal acts. In the Portland and Eugene metro areas, local District Attorney's offices have established Human Trafficking Task Forces, a multidisciplinary and multiagency collaborative approach to criminal investigations and serving victims.<sup>387</sup> The regional task force model demonstrates a commitment of state criminal justice stakeholders to improve trafficking investigations and prosecutions, enhance interagency communication, and improve documentation and intelligence surrounding sex trafficking operations.<sup>388</sup>

### **3. Law Enforcement Training Gaps**

Despite improved responses by some criminal justice stakeholders, including the PPB, the Multnomah County District Attorney's Office, and the DOJ and its regional task forces, law enforcement responses statewide remain fragmented and lacking in statewide standardized anti-sex trafficking strategies. Since law enforcement officers are likely to encounter sex trafficking activities in the course of their daily duties, they must receive adequate training and continuous education in victim identification and develop an understanding of the complexities associated with trauma and abuse.<sup>389</sup> The lack of statewide mandatory training and education about commercial sex trafficking must be addressed. First responders and other relevant stakeholders, such as the Department of Education, Public Health, and other social service providers, are not mandated to attend and receive training on the cycle of abuse, victimization, and identification of sex trafficking victims and incidents.<sup>390</sup> With the lack of statewide awareness on trends and manifestations of sex trafficking and the absence of mandatory training, first responders and other service providers lack information to address trafficking issues adequately.

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<sup>387</sup> Multnomah County District Attorney, "Preventing Human Trafficking in Multnomah County."

<sup>388</sup> Moosy, "Sex Trafficking," 5.

<sup>389</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 73.

<sup>390</sup> Maloney-Dunn and Skinner, 82.

Although state legislation mandates training and education on sex trafficking of minors as part of the child abuse mandatory reporting statutes and mandatory training on domestic violence exist, no state-mandated training addresses adult sex trafficking.<sup>391</sup> Although law enforcement agencies in metro areas participate in multidisciplinary teams and work closely with victim service agencies, they are more familiar with the cycle of victimization and abuse. They are more likely to identify victims of sex trafficking successfully.<sup>392</sup> Police agencies in rural areas might not have the knowledge and skills to correctly identify victims of human trafficking and treat them as offenders due to the nature of sex crimes offenses. However, police agencies in rural regions of Oregon face more challenges in obtaining such training and lack such community-based partnerships with service agencies.<sup>393</sup> As stated in the 2015 Human Trafficking Study by the International Human Rights Clinic at the Willamette University College of Law, “failure to train law enforcement specifically on the identification of sex trafficking victims may result in misidentification of victims as prostitutes, criminals, and deviants themselves.”<sup>394</sup> Considering that sex trafficking occurs in remote parts of Oregon, as mentioned earlier, rural police agencies must receive adequate, timely, and continuous education and training on identification and investigations of human trafficking incidents. Such training and investigative skills may improve the identification of sex trafficking, connect rescued victims with support structures and resources, and disrupt illicit criminal exploitation.

Data and research show the prevalence and the nature of the sex trafficking problem in Oregon, as introduced in this section. With the enactment of the anti-trafficking legislation, Oregon’s law enforcement agencies improved and enhanced their understanding, detection, documentation, and sharing of sex trafficking-related incidents and intelligence. With the holistic and comprehensive anti-trafficking practices and policies, law enforcement in Oregon is more skilled in identifying victims of sex trafficking

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<sup>391</sup> Maloney-Dunn and Skinner, 82; “Training in Human Trafficking,” ORS 181A.480 Oregon Revised Statutes § (2020), <https://www.oregonlaws.org/ors/181A.480>.

<sup>392</sup> Maloney-Dunn and Skinner, 58.

<sup>393</sup> Anthony, Penrose, and Jakiel, *The Typology of Modern Slavery*, 2.

<sup>394</sup> International Human Rights Clinic, *Human Trafficking & Native Peoples in Oregon*, 56.

and applying victim-centric investigations to connect the victim more successfully with services and pathways to recovery.<sup>395</sup> Such an improved response to understanding and addressing sex trafficking by law enforcement serves as a great foundation for identifying similar mechanisms and police protocols to address labor trafficking in Oregon.

## **E. CONCLUSION**

Since the enactment of state anti-trafficking legislation in 2007, local and state law enforcement agencies underwent gradual but historic cultural changes in their attitudes, procedures, and response strategies in addressing commercial sex trafficking. By amending sex trafficking to the existing child abuse mandatory reporting laws, Oregon legislators recognized minor victims' vulnerability factors and created a more effective response framework for law enforcement. The relevance of emerging research and victim testimonials on the nature of abuse and the cycle of violence highlighted the intersectionality between exploitation and victimization of trafficking and domestic violence and child abuse victims. Training and educating police officers and service providers on the typology of trafficking victims enhances their skills and ability to identify victims and understand the reporting cycle of abuse, including reporting barriers. The most significant shift was in the arena of police identification and classification of trafficked persons as victims, and not as offenders.

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<sup>395</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 73.

## **V. “VELVET SHACKLES” AN OVERVIEW OF FOREIGN-BORN LABOR TRAFFICKING IN OREGON**

This chapter introduces the phenomenon of the FBHT problem in Oregon and focuses on the labor trafficking aspects placed in the criminal justice response framework. This chapter’s structure consists of four sections. The first section examines the scope and the nature of labor trafficking, followed by an analysis of the typology of trafficking victims and barriers to reporting crimes to police. The third section of this chapter provides an overview of state labor trafficking legislative frameworks and strategies. The last section of this chapter analyzes the local and state law enforcement agencies’ policies and practices pertaining to labor trafficking. Two PPB labor trafficking investigations, stories of Rafael and Mina, serve as an illustration of the multifaceted nature of labor trafficking crimes occurring in Oregon. This chapter aims to identify the intersectionality between the dynamics of labor trafficking and domestic violence patterns, with the primary focus of examining the existing law enforcement challenges in identifying labor trafficking.

### **A. THE PHENOMENON OF LABOR TRAFFICKING IN OREGON**

This section provides a general overview of the prevalence and the nature of labor trafficking in Oregon. It also offers insights into the state’s economic and demographic profile framed in the context of industries involved and impacted by labor trafficking.

#### **1. The Scope and the Nature of the Problem**

To date, insufficient data has been collected to assess the extent of the labor trafficking problem in Oregon accurately. Several factors, including the hidden nature of the crime and the absence of a data collection and labor trafficking identification infrastructure, have contributed to the current scarcity of collected data.<sup>396</sup>

Whereas an existing data collection infrastructure and inter-agency collaborative efforts facilitate incident documentation and identification of sex trafficking victims, no analogous infrastructure of inter-agency collaboration exists concerning labor trafficking

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<sup>396</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 33.

in Oregon. Currently, the State of Oregon does not maintain a centralized database dedicated to labor trafficking reporting or data collection. Moreover, as of this paper's writing, no labor trafficking crimes have been prosecuted in any Oregon state court.<sup>397</sup> Available records indicate that federal law enforcement convicted one trafficker as a result of the labor trafficking investigation in 2018.<sup>398</sup> Other than sporadic scholarly research and a 2018 report entitled *Human Trafficking in Oregon*, prepared by the Oregon Advisory Committee to the U.S. Commission on Civil rights, very little is known about labor trafficking trends and issues. According to this report, local subject matter experts, including immigration attorneys and social service providers, assert that many foreign-born trafficking victims are employed in the domestic service industry, specifically as nannies and housekeepers, and in care facilities.<sup>399</sup> This thesis introduced a story of Claudia in Chapter II that illustrated a typical scenario for domestic servitude exploitation.

One of the most credible and available data sources on the scope of labor trafficking in Oregon is the NHTH.<sup>400</sup> On an annual basis, the NHTH collects and analyzes tips and calls reported to the hotline.<sup>401</sup> Table 2 shows a consistent number of reported labor cases during the period of 2016–2019, some of which reflect components of both labor and commercial sex trafficking.<sup>402</sup> It is evident that the number of reported labor trafficking incidents is significantly lower than that of commercial sex trafficking information, which aligns with the U.S. Commission's findings concerning labor trafficking issues in Oregon.<sup>403</sup>

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<sup>397</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 48.

<sup>398</sup> "Oregon Woman Pleads Guilty for Role in Forced Labor and Visa Fraud Scheme Involving Thai Restaurant Workers," Justice News, June 14, 2018, <https://www.justice.gov/opa/pr/oregon-woman-pleads-guilty-role-forced-labor-and-visa-fraud-scheme-involving-thai-restaurant>.

<sup>399</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 3.

<sup>400</sup> Brittany Anthony, Jennifer Kimball Penrose, and Sarah Jakiel, *The Typology of Modern Slavery: Defining Sex and Labor Trafficking in the United States* (Washington, DC: Polaris Project, 2017), 7, <https://polarisproject.org/typology-report>.

<sup>401</sup> National Human Trafficking Hotline, "Oregon 2018 Data."

<sup>402</sup> National Human Trafficking Hotline.

<sup>403</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 3.

Table 2. National Human Trafficking Data for Oregon.<sup>404</sup>

<b>NHTH—Oregon Trafficking Data 2016–2019</b>	<b># of Trafficking Reported Cases</b>	<b># of Labor Trafficking Reported Cases</b>	<b># Trafficking cases with elements of both Labor and Sex Exploitation</b>
2016	79	10	7
2017	83	12	8
2018	133	15	11
2019	132	18	5

Research shows that Oregon is both a transit and a destination state for labor trafficking. Its geostrategic location and various economic sectors and industries attract persons likely to fall victim to labor trafficking exploitation. The Oregon coast and its proximity to both Canada and Alaskan sea waterways create opportunities for illicit trafficking and exploitation of victims in the fishing industry, as well as the illegal transport of victims along the West Coast.<sup>405</sup> It is also important to mention that while the highest population density is in the Willamette Valley and along the I-5 corridor, the majority of the agricultural, ranching, and forestry labor sectors are spread throughout the remote areas of Central and Eastern Oregon. Understanding the uniqueness of both the urban and rural geographic layout and the state’s profile is important for creating adequate and tailored law enforcement responses to identify human trafficking incidents.<sup>406</sup>

Another contributing factor to Oregon’s labor trafficking is the state’s transportation infrastructure. As in the case with commercial sex trafficking, labor traffickers use the I-5 corridor to transport labor trafficking victims along the West Coast. Ms. Sinlapasai-Okamura, a Portland-based immigration attorney who specializes in human trafficking cases, stated that traffickers transport victims along the I-5 corridor from

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<sup>404</sup> Adapted from National Human Trafficking Hotline: Oregon, “National Human Trafficking Hotline: Oregon.”

<sup>405</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 7.

<sup>406</sup> Oregon Advisory Committee, 7.



Mexico all the way to Canada.<sup>407</sup> Research shows that the thriving agricultural and forestry industry, cattle ranching, and production, as well as the hospitality service industry, are sectors in which labor trafficking occurs in Oregon.<sup>408</sup> In addition to these industries, the NHTH data shows that Oregon’s labor trafficking exists in construction, street begging, and domestic servitude.<sup>409</sup> Recognizing what specific industries are impacted and involved in human trafficking could guide both law enforcement and legislators to engage proactively and timely in anti-trafficking prevention, intervention, and education with those stakeholders.

## **2. Oregon Foreign-born Demographic as it Relates to Labor Trafficking Exploitation**

It is essential to mention Oregon’s immigration demographic profile pertaining to the nature of this research on foreign-born victims and offers insights into what segments of the Oregon population can be a target for labor exploitation. Research shows that the highest number of the reported Oregon FBHT victims is the nationals trafficked from the top countries, such as Mexico, Vietnam, the Philippines, and China.<sup>410</sup> As this research indicated, many traffickers come from the same ethnic and cultural background as their victims. Therefore, it is important to know and understand the ethnic demographic of the state to identify possible patterns of trafficking recruitment and exploitation by the foreign-born residents.

According to the American Immigration Institute, 432,410 foreign-born persons were residing in Oregon as of 2018. This figure represents approximately 10 percent of the state’s total population. The Institutes further reports that approximately 110,000 of those persons—nearly one in four—were undocumented immigrants.<sup>411</sup> Of note is the fact that according to Oregon census data, roughly 16 percent of Oregon’s immigrant population

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<sup>407</sup> Oregon Advisory Committee, 14.

<sup>408</sup> Oregon Advisory Committee, 7.

<sup>409</sup> National Human Trafficking Hotline, “Oregon 2018 Data.”

<sup>410</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 6.

<sup>411</sup> “Immigrants in Oregon,” American Immigration Council, August 6, 2020, <https://www.americanimmigrationcouncil.org/research/immigrants-oregon>.

speaks a language other than English.<sup>412</sup> The 2018 *Human Trafficking in Oregon* report states that undocumented migrant laborers are at heightened risk for labor exploitation and are a very vulnerable demographic due to factors outlined in Chapter II. These factors include fear of deportation and numerous cultural and linguistic dynamics that function as barriers to reporting trafficking to authorities.<sup>413</sup>

According to the Oregon Employment Department, Workforce and Economic Research Division in 2018, Oregon is becoming a popular labor-migration destination due to economic and population growth.<sup>414</sup> Research shows that about 6,000 workers annually obtain work visa permits to work in the Oregon forestry industry.<sup>415</sup> For example, Table 3 shows a breakdown of migrant workers' representation in top Oregon industries and indicates specific labor-source markets likely to be susceptible to labor trafficking.

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<sup>412</sup> Data USA, "Oregon."

<sup>413</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 7.

<sup>414</sup> "Oregon's Economy: An Overview," Oregon Blue Book, accessed August 2, 2020, <https://sos.oregon.gov/blue-book/Pages/facts/economy-overview.aspx>.

<sup>415</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 17.

Table 3. Percentage of Immigrant Workers in the Leading Oregon Industries.<sup>416</sup>

Industry	Immigrant Share (%) (of all industry workers)
Agriculture, Forestry, Fishing, and Hunting	28
Manufacturing	21
Administrative & Support; Waste Management; and Remediation Services	18
Accommodation and Food Services	16
Construction	14
Source: Analysis of the U.S. Census Bureau's 2018 American Community Survey 1-year PUMS data by the American Immigration Council.	

As mentioned, the demand for laborers, especially in the agricultural and forestry sectors, drives many Oregon businesses to seek cheaper foreign-labor forces by participating in the federal work visa program.<sup>417</sup> A federal non-immigrant worker visa program allows USA-based businesses to contract cheaper foreign labor as seasonal and temporary migrant workers under two classifications, H-2A (temporary agricultural non-immigrant) and H-2B (temporary non-agricultural non-immigrant).<sup>418</sup> However, research shows that H-2A/2B visa holders are highly susceptible to labor trafficking due to deportation threats, wage theft, and other abuse.<sup>419</sup> As a result of the visa regulations, these workers can only work for the visa-granted employer. In cases of abusive work and living

<sup>416</sup> Source: American Immigration Council, "Immigrants in Oregon."

<sup>417</sup> Alex Taylor, "H2-A Visas: Making Do with an Imperfect System," Oregon Tilth, May 21, 2019, <https://tilth.org/stories/h2-a-visas/>.

<sup>418</sup> Taylor.

<sup>419</sup> Sara Crowe, *Human Trafficking on Temporary Work Visas: A Data Analysis 2015–2017* (Washington, DC: Polaris Project, 2018), 5, <https://polarisproject.org/wp-content/uploads/2019/01/Human-Trafficking-on-Temporary-Work-Visas.pdf>.

conditions, they cannot leave their employer and seek a job with a different employer without violating the visa immigration law.<sup>420</sup> A national study on the work visa program highlights that while these programs are an opportunity for foreign laborers to work in the United States, it appears that “human traffickers are using workers under H-2A, H-2B and other popular temporary work visas as their personal ATM machines and along the way, making legitimate businesses, consumers and the U.S. government complicit in the \$150 billion business of global human trafficking.”<sup>421</sup> According to the State of Oregon report on Farmworker Labor, in 2010, 3,672 forest workers were registered in Oregon, as well as 123,000 agricultural workers. The report also states that approximately 1,430, Oregon farms used the migrant labor force in 2010.<sup>422</sup> Given the aforementioned economic and labor push and pull factors, it is not surprising that many foreign-born workers become victims of labor trafficking as it relates to the agricultural and forestry sectors.<sup>423</sup> Analyzing the annual data on the work visa program in Oregon could provide invaluable insights into what specific industries employ foreign labor to engage the Bureau of Labor Industry for inspection and oversight of compliance with state labor laws and practices.<sup>424</sup>

## **B. TYPOLOGY OF LABOR TRAFFICKING VICTIMS AND THE NATURE OF ABUSE**

This section offers insight into the unique characteristics of labor trafficking victims and shows the process of recruitment while highlighting the complex abuse cycles and exploitation trends. Two PPB human trafficking reports illustrate a complex abuse and exploitation journey that labor trafficking victims experience during their captivity.

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<sup>420</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 11.

<sup>421</sup> Crowe, *Human Trafficking on Temporary Work Visas*, 4.

<sup>422</sup> Legislative Committee Services, *Background Brief on Farmworker Labor* (Salem, OR: Legislative Committee Services, 2012), 1, [https://www.oregonlegislature.gov/citizen\\_engagement/Reports/FarmworkerLabor.pdf](https://www.oregonlegislature.gov/citizen_engagement/Reports/FarmworkerLabor.pdf).

<sup>423</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 18.

<sup>424</sup> Oregon Advisory Committee, 18.

## **1. Who Are the Victims?**

Scholarly research shows that men, women, and children are victims of labor trafficking in Oregon. Contrary to public myths that only undocumented migrants are victims of labor trafficking, trafficking victims are both documented and undocumented immigrants.<sup>425</sup> Many undocumented victims share a similar story of their recruitment into the trafficking world. Whether they are seeking employment opportunities in the construction, housekeeping, forestry, or agricultural industries, or fleeing from drug cartel violence and gang recruitment, these persons fall victims to labor schemes and deception by the use of fraud, force, or coercion by traffickers.<sup>426</sup>

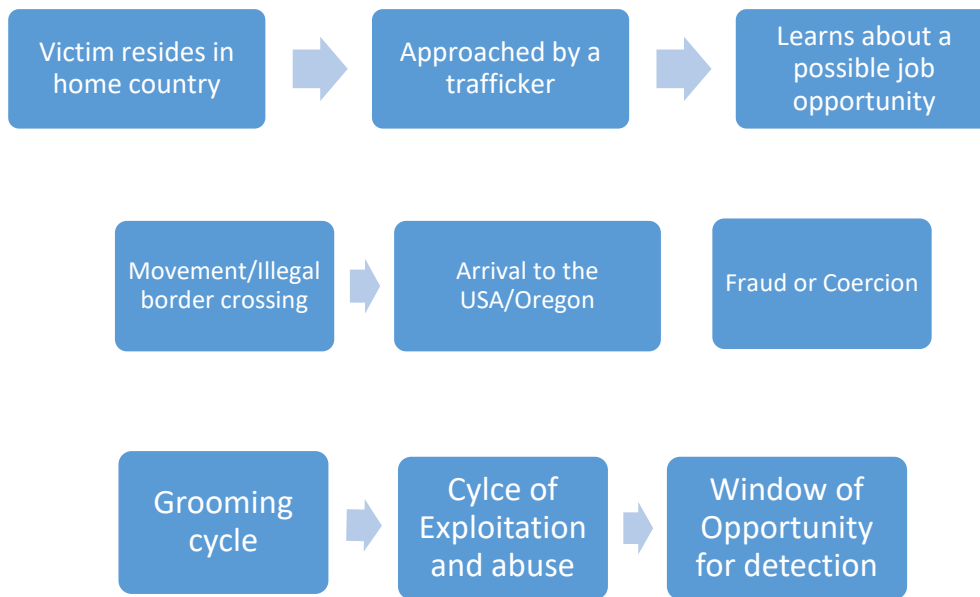
Table 4 illustrates a common labor trafficking recruitment scenario as identified through research and summary of victim testimonials.

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<sup>425</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 5.

<sup>426</sup> Farrell, McDevitt, and Fahy, *Understanding and Improving Law Enforcement Responses*, 45.

Table 4. Phases of Recruitment of an Undocumented Victim.<sup>427</sup>



A typical recruitment pathway unfolds by a victim meeting a person of trust or someone from the victim’s ethnic community and speaks their language, who offers them a lucrative job in Oregon.<sup>428</sup> That person—the trafficker—helps arrange for the victim to illegally cross the border with the help of a coyote, as illustrated in Claudia’s story in Chapter II. Once the victims enter the country, traffickers typically deceive them by exposing them to the initial phase of grooming and acclimating to new working and living conditions, as shown in Henry’s story in Chapter II. Then, traffickers resort to fraud, force, or coercion by seizing the victims’ travel documents, and then subjecting victims to physical and sexual violence and threats and isolation from the outside world.<sup>429</sup>

<sup>427</sup> Source: Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 47.

<sup>428</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 17.

<sup>429</sup> Oregon Advisory Committee, 17.

It is important to highlight that many labor trafficking victims pursue a process of lawful entry into the United States by obtaining an H-2A or H-2B work visa.<sup>430</sup> Table 5 illustrates one of the most prevalent scenarios for labor recruitment steps via immigration channels; although, this research recognizes that many versions of the recruitment schemes are available.<sup>431</sup> Victims, pursuing an economic opportunity, either respond to an employment agency advertisement or learn about a job from a person of trust who often comes from the same ethnic and language background.<sup>432</sup>

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<sup>430</sup> Farrell, McDevitt, and Fahy, *Understanding and Improving Law Enforcement Responses*, 10.

<sup>431</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 47.

<sup>432</sup> Owens et al., 34.

Table 5. Phases of Recruitment of a Documented Labor Victim.<sup>433</sup>



Once the victims lawfully arrive at their destination, Oregon, the trafficker, or a trafficker associate, resort to a brief grooming cycle, such as adheres to the initial contract agreement, or even pays the victims regularly. However, soon after the arrival, the trafficker resorts to fraud, force, or coercion by seizing travel documents and subjecting the victims to prolonged abuse, control, and subhuman working and living conditions treatments.<sup>434</sup> The following synopsis of a PPB labor trafficking report best illustrates a typical scenario of how a lawful recipient of the H-2A worker visa program became a victim of labor trafficking and abuse. In February 2017, the PPB conducted a criminal investigation involving a victim whose real name remains confidential.<sup>435</sup>

<sup>433</sup> Source: Owens et al., 47.

<sup>434</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 61.

<sup>435</sup> Portland Police Records. 2017.



## **2. “A Story behind a Christmas Tree Reforestation”**

Rafael grew up in a small agricultural town in Jalisco, a province of Mexico. He worked as a farm laborer, together with his brothers and father, when a local man approached him and told him about a legal, seasonal job opportunity in America. Since he wanted to save money to buy a house and support his parents, Rafael agreed to meet with a labor broker, Luis, originally from the same area and spoke the same language and dialect. Luis offered Rafael a job as a forestry worker on an Oregon nursery farm. Luis said that he would arrange for a legitimate work permit, i.e., an H-2A visa that would grant Rafael a nine-month work period in Oregon.

Rafael, who had just turned 18, agreed to the job proposal and borrowed money from a local loan shark to pay for Oregon’s air travel expenses. Rafael arrived in Portland, Oregon, together with about ten other men from his area, all of whom had accepted Luis’s job offers. Upon the group’s arrival, two men picked them at the airport and drove them to a house. These same two men subsequently acted as guards, watched Rafael and the other workers, and controlled their movements. Rafael was only allowed to leave the house or worksite when escorted by his guards. When recounting his experiences later, Rafael said that he felt like a prisoner.

Rafael found himself sharing a two-bedroom residential house with 10 other men. He slept on the floor for the first month without electricity, hot water, or any furniture. At the end of that month, Luis showed up at the house, forced Rafael to sign a contract written in English, and told Rafael that he planned to deduct the administrative cost for the work permit from Rafael’s paycheck. Luis also seized Rafael’s passport and told him that he was doing so to prevent Rafael from leaving the worksite.

According to Rafael, the next nine months of working for Luis became a nightmare. His daily schedule consisted of getting up at 3:00 a.m., driving for two hours to a worksite in the forest, and working until dark. Rafael did not have any warm clothes, rain gear, or protective safety equipment for manual forestry work. To buy gloves or rain boots, he had to borrow the money from Luis, money that he subsequently deducted from Rafael’s paychecks. In the beginning, Rafael received his paycheck every two weeks. However,

Luis soon started to withhold his wages and warned Rafael about not meeting a daily quota of planting Christmas tree seedlings. For each planted Christmas tree seedling, Rafael received 80 cents. Per Rafael, he spent the entirety of each workday planting seedlings, with only one 15-minute break. On one occasion, Rafael became sick from exhaustion and fever, but Luis refused to take him to urgent care to be treated. Rafael stated that Luis verbally and physically abused workers, called them derogatory names, and threatened them with deportation should they try to escape or even complain about the working and living conditions. Leaving was not an option for Rafael, as he needed the money to pay off his debts back home, and because he had promised his father that he would send him money every month.

After nine months, Luis told Rafael that he had arranged for Rafael's work permit to be extended. In fact, Luis had not obtained a work permit extension, and Rafael's immigration status thus reverted to that of an undocumented migrant. Rafael later recounted that he felt very trapped and terrified of deportation and arrest upon learning of Luis's deception. Months later, Rafael met with an immigration attorney, and for the first time, learned that he was a victim of labor trafficking and exploitation. A few years went by before Rafael met with a police officer and provided his testimonial. However, due to a lack of evidence to support Rafael's claims, a police investigator did not pursue a criminal investigation that resulted in no legal proceedings against Luis. Fortunately, for Rafael, he received the victim's assistance and immigration relief under the Trafficking Victim Protection Act.

Rafael's story is just one of many labor trafficking narratives occurring in a specific industry setting; however, his shared testimony provides invaluable insight into the invisible and complex trafficking schemes and operations occurring within the legal immigration system.

### **3. The Abuse, Cycle of Power, and Control of Labor Trafficking Victims; Why They Do Not Just Leave their Traffickers?**

Raphael's story illuminates a hidden world of abuse, mistreatment, control, and demonization that labor victims experience during their captivity, similar to domestic

violence and child abuse victims' experiences. Michael Dale, an executive director of the Northwest Workers' Justice Projects, described the position of labor trafficking victims who hold work permits as follows, "That's kind of velvet handcuffs. No matter how hard it gets, if you complain, you burn your one contact with that person, and you don't get to come back."<sup>436</sup> Not only do many labor victims, yet again, regardless of their immigration status, live and work in poor, unsafe, and subhuman conditions, but also they are often deprived of basic needs and access to health care.<sup>437</sup> By depriving victims of accessing health care assistance, traffickers not only mistreat their victims, but they subject them to medical and psychological terror and punishment that severely impacts victims' mental health.<sup>438</sup> A degree of abuse and mistreatment is best illustrated in the following summary of a victim's testimony, "A journey of hope and shame." In June 2014, the PPB conducted a criminal investigation involving "Mina," a victim of domestic servitude. However, in accordance with applicable criminal investigative protocols, the victim's real name remains confidential.<sup>439</sup>

#### **4. "A Journey of Hope and Shame"**

Mina, a Nepalese victim of labor trafficking, met her trafficker in Katmandu. Mina was a nurse at a local hospital where the trafficker, an older American woman, was hospitalized. The trafficker offered Mina a six-month-long job as a caretaker in Portland. As a single mother and widower, Mina saw an opportunity to earn enough money to send her daughters to colleges. After obtaining a legal work permit, Mina arrived in Portland, after which the trafficker seized her passport. After approximately two weeks of a grooming phase, Mina's life underwent a dramatic change for the worse; the trafficker forced her to work 14-hour shifts cooking, cleaning, and doing yard work, and sleeping either on a dog bed or on the floor.

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<sup>436</sup> Keith Chu, "Foreign Workers in Oregon Forests," *The Bulletin*, August 30, 2010, [https://www.bendbulletin.com/localstate/foreign-workers-in-oregon-forests/article\\_b9e65c83-c0d6-5784-a2dc-00ad57aa0417.html](https://www.bendbulletin.com/localstate/foreign-workers-in-oregon-forests/article_b9e65c83-c0d6-5784-a2dc-00ad57aa0417.html).

<sup>437</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 5.

<sup>438</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 149.

<sup>439</sup> Portland Police Records. 2014.

Mina never received payment for her work. Furthermore, she fell ill at some point in time but was initially denied medical help. When her medical condition worsened, the trafficker took Mina to a local urgent care clinic but stayed with Mina at all times. Mina was not able to communicate with a nurse to seek help freely. After the visit, the trafficker told Mina that she had to pay her back around \$5,000 for medical fees. Mina stated that she did not have any money to pay off the medical debt. The trafficker threatened Mina with reputational harm by pretending to call Mina's brother and spreading rumors that Mina was a prostitute and an amoral woman. For Mina, a traditional and Buddhist woman, the threat of reputational harm and the shame it could bring to her family was a powerful tool wielded by the trafficker to exercise control over Mina. As a result of a six-months long abuse and mistreatment, Mina suffered from severe depression and post-traumatic stress disorder, and at one point, she had suicidal thoughts. However, Mina was able to escape her traffickers and received victim assistance with the help of neighbors. As in the case of Raphael, due to a lack of evidence, a criminal investigation into labor trafficking was not launched, and Mina's trafficker was not held accountable for her criminal acts.

## **5. Why Do They not Report? Barriers Victims Face to Reporting of Labor Trafficking**

As shown in the stories of Rafael and Mina, labor trafficking victims face significant roadblocks. These obstacles oftentimes include a limited command of English, and limited, if any, interactions with people other than the traffickers, both of which limit the victims' ability to report abuse and exploitation.<sup>440</sup> It is no uncommon for the non-English speaking victim to depend solely on their traffickers for language support. For example, those labor victims who work and live in remote and secluded areas may have no other contacts and language support other than their traffickers, as illustrated in a victim's statement, "I was completely—I was afraid. I did not speak English that was also another impediment for me because in the town, there weren't very many people who spoke

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<sup>440</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 103.

Spanish. There were few Latinos who were there, and the Latinos who were there were with my aunt [trafficker].”<sup>441</sup>

Labor victims are highly vulnerable because they are solely dependent on their traffickers for shelter and jobs; they rarely complain.<sup>442</sup> A degree of fear and threats of harm if a victim wants to report the abuse is a significant roadblock to identifying labor trafficking. Mr. Wilmsne, executive director for the Northwest Forest Worker Center in Oregon, best describes the gravity of the traffickers’ abuse and control, “there is a great deal of fear...if you do anything if your report an injury or if you do anything that rocks the boat [] you will be retaliated against in some way.”<sup>443</sup>

One of the major roadblocks to reporting is that, similar to domestic violence and child abuse victims, labor trafficking victims do not know they are victims of a crime and rarely, if ever, self-identify as victims.<sup>444</sup> Contrary to the reporting of other types of crimes, such as robbery or assault, labor trafficking victims struggle with self-identification as best illustrated by the following detective’s statement, “Victims don’t come in with this vocabulary, and they don’t know to say, “Well, I was working involuntarily for this person, and by fraud, he brought me from such and such a country.” They don’t talk that way. They don’t know what that is what they need to prove. Sometimes, they don’t even know they are a victim.”<sup>445</sup> Therefore, to raise awareness on challenges surrounding the identification of human trafficking victims, it seems the first and essential step is that law enforcement and other service providers understand and acknowledge some of these fundamental roadblocks to victims’ identification.

The characteristics of domestic violence abusers’ dynamics and behavior are similar to that of traffickers who display a varying degree of power and control over their victims that vary from threats of physical, sexual, and mental and reputational harm to

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<sup>441</sup> Owens et al., 103.

<sup>442</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 18.

<sup>443</sup> Oregon Advisory Committee, 18.

<sup>444</sup> Clawson and Dutch, *Identifying Victims of Human Trafficking*, 3.

<sup>445</sup> Farrell and Pfeffer, “Policing Human Trafficking,” 50.

subjecting victims to severe forms of violence, torture, and mistreatment.<sup>446</sup> Threats of deportation, threats of harm to the victim's family back in the home country, threats of sexual violence if the victim did not comply with the trafficker's orders are just some of the abusive and coercive tactics traffickers resort to repress victims.<sup>447</sup> Most commonly, labor trafficking victims exhibit signs of severe psychological trauma stemming from prolonged cycles of abuse.<sup>448</sup> Like domestic violence abuse and control dynamics, trafficking victims rarely experience only one incident of abuse; instead, they are subject to a series of abusive and violent acts over a protracted period. Rafael's case best illustrates traffickers' methodology and practices in subjecting victims to multiple types of mental, physical, and emotional abuse events that inflict trauma on the victims. In addition, Rafael's case also indicates the unique and complex nature of trafficking crimes compared to a somewhat traditional one-event type of offenses. Another unique intersectionality with domestic violence is that labor trafficking victims and survivors stated that even when they met with a police officer or investigator, they struggled to overcome their police fears. Many said they struggled with police perceptions of them and viewed them as suspects and not victims that they believed their traffickers instead of them.<sup>449</sup> As Amy Farrell described it, police agencies have cultural and organizational blinders when it comes to understanding trafficking victimization.<sup>450</sup> Again, these institutional barriers so closely resonate with the initial barriers domestic violence victims faced in the early 1970s. Scholars point out that due to decades-long advocacy, awareness, and continuous research efforts on domestic violence, law enforcement and other service providers, gradually and organically became more aware, trained, and mindful of the intricate and complex nature of the domestic violence issue. These institutional and cultural barriers, factored in with complex cultural and linguistic roadblocks that victims face, serve as a severe challenge to a timely and early identification of labor trafficking incidents and rescue of trafficking victims.

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<sup>446</sup> Roe-Sepowitz et al., "Victim or Whore," 885.

<sup>447</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 83.

<sup>448</sup> Owens et al., 150.

<sup>449</sup> Owens et al., 96.

<sup>450</sup> Farrell and Pfeffer, "Policing Human Trafficking," 62.

### **C. OREGON ANTI-TRAFFICKING LEGISLATIVE FRAMEWORKS ADDRESSING LABOR TRAFFICKING**

The following subsection introduces the aspects of the state anti-trafficking legislation that pertain to the labor exploitation issues of human trafficking to include the statewide coalition efforts to address labor trafficking.

The anti-trafficking legislative framework introduced in the previous section includes several unique provisions and laws pertaining to the labor exploitation component of human trafficking. Oregon law defines a crime of trafficking in persons as occurring when “a person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts or attempts to recruit, entice, harbor, transport, provide or obtain by any means, another person,” with the knowledge that said other person will be subjected to “involuntary servitude” and the perpetrator of the offense “knowingly benefits financially or receives something of value from participation in a venture that involves an act prohibited.”<sup>451</sup>

In addition to the main anti-trafficking legislative framework introduced in the previous section, a few special provisions and laws deal with the labor exploitation nature of human trafficking. Oregon law defines crimes of human labor trafficking when, “a person knowingly recruits, entices, harbors, transports, provides or obtains by any means, or attempts to do so and knows that the other person will be subjected to involuntary servitude and benefits financially or receives something of value from participating in the venture.”<sup>452</sup>

Although the Oregon state legislature crafted these labor trafficking statutes, experts state that they have more utility as informational and educational resources than as prosecutorial tools with which to combat labor trafficking.<sup>453</sup> Many experts ascertain that more legislative efforts and victim prevention programs are directed at addressing and

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<sup>451</sup> ORS 163.266 Oregon Revised Statutes §, “Trafficking in Persons.”

<sup>452</sup> ORS 163.266 Oregon Revised Statutes §.

<sup>453</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 37.

combating the commercial sex trafficking problem.<sup>454</sup> Many experts assert that legislative efforts and victim prevention programs are focused on the commercial sex trafficking problem to a much larger degree than they are on labor trafficking.<sup>455</sup> Since the enactment of labor trafficking statutes by the Oregon state legislature in 2007, not a single labor trafficking case has been prosecuted in any local or state court. Some experts attribute the apparent marginalization of Oregon's labor trafficking issue to a lack of awareness and advocacy amongst government and private sector stakeholders.<sup>456</sup> Such advocacy and victims' testimonials are necessary to inform and educate state policymakers and legislators, and in doing so, increase the use of existing labor trafficking statutes to address gaps in detection, enforcement, and prosecution.

Contrary to the existing multidisciplinary response framework in place for addressing commercial sex trafficking, the labor trafficking issue lacks such a response. For example, as mentioned in the previous section, the Oregon Department of Justice and the state sponsor and oversee nine taskforces addressing sex trafficking. However, no such effort exists for state-sponsored taskforces. However, it is noteworthy that in January 2020, Oregon Attorney General Ellen Rosenblum announced the creation of a statewide working group to examine the labor trafficking problem.<sup>457</sup> The Attorney General's recognition and acknowledgment of a chronic lack of attention to addressing labor trafficking is indicative of the urgency to develop a more comprehensive statewide response to addressing labor trafficking similar to that of commercial sex trafficking.

Conversely, only one such taskforce focused on labor trafficking currently exists in Oregon, the FBHT, established in 2013 by the United States Attorney's Office for the District of Oregon. Assistant United States Attorney Hannah Horsley, a taskforce chair, created a comprehensive working group comprising local and federal law enforcement

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<sup>454</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 19.

<sup>455</sup> Oregon Advisory Committee, 19.

<sup>456</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 65.

<sup>457</sup> "Oregon's Attorney General Targets Labor Trafficking: 'It Is Happening under the Radar in All Corners of the State'," OregonLive, accessed October 10, 2020, <https://www.oregonlive.com/crime/2020/01/oregons-attorney-general-creates-task-force-to-address-labor-trafficking.html>.



investigators and victims' advocates working in tandem to investigate labor trafficking cases.<sup>458</sup> Since its inception, however, only one foreign-born labor trafficking case has been successfully prosecuted.<sup>459</sup> The dearth of federally prosecuted labor trafficking cases is largely attributable to a lack of awareness of the issue within both law enforcement and advocacy agencies and a resultant inability to identify labor trafficking operations, victims, and traffickers.

#### **D. LAW ENFORCEMENT RESPONSE TO LABOR TRAFFICKING**

The following section presents an overview of the current challenges and barriers law enforcement faces in the timely and proactive identification and disruption of labor trafficking criminal activities.

##### **1. The Existing Police Policies and Procedures in Combating Labor Trafficking: The Current Framework**

Although the State of Oregon enacted anti-trafficking legislation comprised of both commercial sex and labor trafficking statutes, it appears that a general lack of awareness, understanding, and application of labor trafficking statutes exists.<sup>460</sup> The previous chapter illustrated the evolution of improved and enhanced strategies to addressing commercial sex trafficking, including reforms and changes in police creating policies and procedures to process, investigate, and respond to commercial sex trafficking crimes. For example, the PPB created a Sex Trafficking Unit comprised of specially trained detectives and victim specialists investigating sex trafficking incidents.<sup>461</sup>

Unfortunately, no such organizational efforts and structures exist within the PPB to address and investigate labor trafficking cases, which, as research shows, is not unique to the PPB. The *Human Trafficking in Oregon* report points out the inadequacy of law enforcement's response to and understanding of labor trafficking, including the lack of

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<sup>458</sup> Department of Justice, *U.S. Attorney's Office District of Oregon: Strategic Plan to Combat Human Trafficking* (Portland, OR: Department of Justice, 2016), 2.

<sup>459</sup> Justice News, "Oregon Woman Pleads Guilty."

<sup>460</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 26.

<sup>461</sup> Ohlsen, *Commercial Sexual Exploitation of Children*, 7.

procedural and investigative protocols.<sup>462</sup> Although Oregon's state legislation offers involuntary servitude criminal statutes, evidence shows that law enforcement does not currently utilize these charging instruments. Labor trafficking investigations are complex, time, and resource consuming; they are often multijurisdictional and span across several states, even countries.<sup>463</sup> Thus, because they often have a nexus to enforcement and investigation of federal immigration offenses, it is not surprising that local law enforcement is more likely to refer to the federal counterparts when encountering a labor case.<sup>464</sup>

Studies show that local law enforcement, because of the lack of experience and more focus on sex trafficking, regards labor trafficking investigations to be labor regulatory agencies' responsibility.<sup>465</sup> The investigators and inspectors with the Oregon Bureau of Labor Industry (BOLI) have a unique role and position to identify and come across labor trafficking cases in the course of executing their labor regulations and labor campsites.<sup>466</sup> The BOLI is an invaluable law enforcement stakeholder as it typically addresses, regulates, and enforces state labor laws that often intersect labor trafficking operations.<sup>467</sup> However, research shows limited integration of investigative and intelligence sharing exists between BOLI investigators and local law enforcement, which leads to gaps in collaborative and holistic enforcement efforts.<sup>468</sup>

## **2. Trafficking Victim and Suspect Identification by Law Enforcement**

It is highly challenging to improve law enforcement's ability to identify victims without adequate procedural frameworks in place.<sup>469</sup> Scholars and field practitioners agree that local law enforcement is very likely to come across a victim of trafficking, whether in

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<sup>462</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 35.

<sup>463</sup> Clawson and Dutch, *Identifying Victims of Human Trafficking*, 3.

<sup>464</sup> Farrell, Pfeffer, and Bright, "Police Perceptions of Human Trafficking," 317.

<sup>465</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 166.

<sup>466</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 43.

<sup>467</sup> Maloney-Dunn and Skinner, 40.

<sup>468</sup> Maloney-Dunn and Skinner, 43.

<sup>469</sup> Farrell and Pfeffer, "Policing Human Trafficking," 52.

the course of responding to calls for services or in the course of investigating other types of crimes, such as domestic violence or assaults.<sup>470</sup> The similarities between domestic violence and trafficking victims' experiences are striking, especially in the degree of emotional, physical, sexual, and psychological harm to victims, systemic and institutional barriers in reporting, detecting, and investigating these crimes. Like domestic violence, sex and labor trafficking crimes are not single incident events, such as robbery or an assault. Instead, like domestic violence and child abuse, human trafficking is a series of prolonged and complex events comprised of physical violence, control, oppression, and victims' degradation to the point of submission and helplessness.<sup>471</sup>

When interacting with a potential labor trafficking case, law enforcement may only recognize crime elements they are familiar with and trained on, such as domestic violence or assault, and not see beneath the surface, as presented in Maya's case, mentioned in Chapter II. When she called police, the local officers only identified domestic violence elements and failed to put the dots together and see a broader spectrum of human trafficking elements. As Senior Deputy District Attorney at the Multnomah County District Attorney's Office, J.R. Ujifusa noted that "many domestic violence victims are actually victims of human trafficking as well, suggesting, it further supports the need for continuous education and improved awareness of dynamics and red flags for labor trafficking."<sup>472</sup>

The hidden and complex nature of trafficking crimes that often involve undocumented immigrants and migrant laborers directly influences how police define and perceive labor trafficking victims.<sup>473</sup> Many misconceptions surround law enforcement's identification of labor trafficking victims, which trafficking scholar Amy Farrell captured in her study.<sup>474</sup> She presented the anecdotal evidence and field practitioners' testimonials that span from how some police generally perceive undocumented labor trafficking victims

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<sup>470</sup> Clawson and Dutch, *Identifying Victims of Human Trafficking*, 4.

<sup>471</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 86.

<sup>472</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 25.

<sup>473</sup> Clawson and Dutch, *Identifying Victims of Human Trafficking*, 3.

<sup>474</sup> Farrell and Pfeffer, "Policing Human Trafficking," 52.

and their lack of understanding of the nuanced indicators of abuse and control cycles by traffickers. Farrell interviewed a detective who stated, “A lot it has to do with the country’s stance on immigration. People look at these people (potential victims) and say, “Well, they are not victims. They just need to get them out of the country. They are illegals.” And a lot of these people feel victimized. They’re like “They are taking our jobs.” I don’t think you are getting a lot of sympathy for the labor trafficking. You know? People are like, “Well, if they come in the country illegally, too bad...It’s a risk they’ve got to take. So tough.”<sup>475</sup> Combined with highly politicized and polarized immigration-related public discourse and the lack of understanding labor laws, it is not surprising that many police officers fail to identify labor trafficking victims.<sup>476</sup>

The hidden nature of labor trafficking does make timely detection and rescue very challenging and problematic. Research indicates that many years often elapse between the onset of a trafficking incident and when victims of the said incident are freed or rescued. Such time gaps lead to significant delays in capturing and documenting abuse incidents, which thus negatively impacts potential criminal investigations and judicial processes.<sup>477</sup> Due to the limited available data and case studies, it is difficult to assess avenues to which law enforcement identifies labor trafficking victims. Based on the reported cases to PPB, it appears that immigration attorneys, who specialize in human trafficking cases, report the majority of labor trafficking referrals to police.<sup>478</sup> The NHTH hotline data shows a number of reported labor trafficking cases; however, it remains unclear if local law enforcement investigated any of those cases, and no data is available to examine the issue of reporting and investigative protocols.

It is also important to mention that, unlike the intelligence efforts for commercial sex trafficking, currently, no intelligence gathering and analysis platforms available for

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<sup>475</sup> Farrell and Pfeffer, 52.

<sup>476</sup> Farrell and Pfeffer, 57.

<sup>477</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 121.

<sup>478</sup> Jean Bruggeman and Elizabeth Keyes, *Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys & Advocates* (Chicago: American Bar Association, 2009), 33.

labor trafficking incidents. Such a lack of statewide platforms for labor trafficking data contributes to the problem's scope and ongoing ambiguity.<sup>479</sup> The lack of a sustainable statewide intelligence platform for labor trafficking is a systemic barrier to an informed and proactive response to labor trafficking, vital to effectively combating and understanding labor trafficking patterns and operations.<sup>480</sup>

## **E. CONCLUSION**

Foreign-born labor trafficking exists in many industry sectors in Oregon, particularly in agriculture, forestry, construction, and hospitality industries. This chapter highlighted some of the fundamental intersectionality between human trafficking and domestic violence in the arena of victims' typology, the nature of abuse, and institutional barriers to victims' identification by law enforcement. In general, Oregon law enforcement lacks understanding and awareness about the trauma, cycle of abuse, and exploitation patterns associated with labor trafficking dynamics. Contrary to commercial sex trafficking changes, cultural shifts have not occurred in improving the identification and investigation of labor trafficking.

Since no state policies mandate the reporting of human trafficking incidents, nor the training and education of police officers, Oregon law enforcement agencies remain oblivious to the labor trafficking issue. The absence of legislative infrastructure, internal policies governing investigative protocols, and victim identification documentation result in the police agencies' lack of human trafficking data collection, analysis, and dissemination between state and federal partners. As a result of such inadequate labor trafficking responses, a conclusive and comprehensive evidence-based analysis of the scope and nature of trafficking necessary is not available to inform policymakers to develop adequate and tailored anti-labor trafficking strategies. The following chapter focuses on identifying specific areas of law enforcement response and investigative procedures and protocols that require policy amendments and reforms as placed in the framework of mandatory reporting enhancements.

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<sup>479</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 33.

<sup>480</sup> Farrell and Pfeffer, "Policing Human Trafficking," 55.

## VI. CONCLUSION AND RECOMMENDATIONS

I am sharing a story about my experience to help police officers learn about human trafficking. I want to help other victims and encourage them not to be afraid and seek help from the police.

Maya, Oregon human trafficking victim, whose real name remains confidential, as quoted in an excerpt from a 2016 PPB criminal investigation interview.<sup>481</sup>

Human trafficking is a complex and multifaceted crime that violates criminal, immigration, labor, civil, and human rights laws. Its hidden nature, compounded by the fact that commercial sex and forced labor trafficking is a multi-billion-dollar industry that thrives on the principles of high profits and low risks, makes detection and disruption of this illicit activity extremely challenging.<sup>482</sup>

In the absence of definitive, accurate trafficking data collection and sharing platforms, an evidence-based assessment of the nature and prevalence of foreign-born human trafficking exploitation in Oregon is problematic.<sup>483</sup> An examination of the Portland (Oregon) Police Bureau's labor trafficking investigations and reports between 2012 and 2019 clearly demonstrates that labor trafficking activities are occurring in the state of Oregon. These investigations also illustrate that local law enforcement officers routinely encounter labor trafficking victims in the course of their regular duties. However, due to a constellation of factors, police officers often misidentify labor trafficking crimes or focus exclusively on familiar criminal elements of a larger picture. Such misidentification of labor trafficking crimes results in inconclusive trafficking data collection practices and missed opportunities for the intervention and rescue of trafficking victims.<sup>484</sup>

This research has examined whether the re-classification of human trafficking as a crime subject to state mandatory reporting requirements would enhance local and state law

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<sup>481</sup> Portland Police Records. 2016.

<sup>482</sup> Financial Action Task Force, *Financial Flows from Human Trafficking*, 3.

<sup>483</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 33.

<sup>484</sup> Clawson and Dutch, *Identifying Victims of Human Trafficking*, 4.

enforcement efforts to identify, document, and investigate crimes of FBHT. A review of two mandatory reporting case studies and their impact on Oregon law enforcement operations and strategies vis-à-vis domestic violence and child abuse served as a foundational insight into the intersectionality between said crimes and a possible application to addressing the issue of human trafficking.

## **A. SUMMARY OF FINDINGS**

As a result of decades-long advocacy and research on domestic violence and child abuse, a significant body of work has emerged that illuminates the complexity of these issues. While scholarly research on human trafficking continues to progress and evolve, this thesis relies on existing research concerning domestic violence, child abuse, and trafficking to identify commonalities with respect to victim vulnerabilities, prevailing attitudes within the U.S. justice system, and barriers to reporting.

A comparative analysis of three distinct categories of crime—human trafficking, domestic violence, and child abuse—disclosed significant commonalities in both victim typologies and institutional law enforcement attitudes and practices. In addition, this research identified causalities between mandatory reporting and law enforcement data collection, analysis, and sharing practices. The following section offers a summary of the findings developed through this research.

## **B. SHARED TYPOLOGIES**

An examination of various aspects of child abuse, domestic violence, and human trafficking—to include patterns and cycles of abuse, as well as the impact of such abuse on victims—revealed significant similarities among victims. Each crime occurs in all segments of society and across all cultural, ethnic, and social boundaries. Each crime is hidden in nature, often occurring in the privacy of a residential dwelling or otherwise out of the public eye, e.g., on a remote Christmas tree farm or nursery, as illustrated in Raphael’s labor trafficking testimony. As a result of the isolation and control inflicted upon them by their abusers, victims lack social and support structures, which, in turn, inhibits their access to protection and support services.

Another significant commonality among victims of domestic violence, child abuse, and trafficking is that they are subjected to prolonged mental, physical, emotional, and sexual abuse, control, and victimization.<sup>485</sup> Their victimizers use coercive tactics and threats of harm to prevent victims from reporting or fleeing. The fact that these perpetrators are often intimate partners, family members, or otherwise regarded as persons of trust, prevents battered and trafficked victims from breaking away and reporting the abuse. Shared fears of being stigmatized, coupled with feelings of guilt, shame, and embarrassment, often compel victims to remain in abusive relationships.<sup>486</sup>

In view of such feelings, and compounded with the fact that victims often depend on their abusers and traffickers for shelter, food, and basic needs, it is not surprising that victims do not leave their abusers.<sup>487</sup> Moreover, immigrant victims often face significant barriers to reporting abuse, including a fear of the police, a fear of deportation, and in many cases, a fear of losing custody of their children if deported. Many immigrant victims depend on their USA-born spouses to sponsor their petitions for lawful residency and believe their abusers' threats of deportation.<sup>488</sup> Undocumented battered and trafficked victims are particularly vulnerable to exploitation, as they fear incarceration and deportation due to their illegal immigration status.

This thesis presented that both trafficked and battered victims are groomed by their abusers to hide their victimization during encounters with law enforcement officers.<sup>489</sup> The PPB case of Mina's trafficking is an excellent illustration of how traffickers manipulate their victims to conceal their victimization when seeking medical services, which thus further isolates victims from outside support networks.

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<sup>485</sup> Erez, "Domestic Violence and the Criminal Justice System," 2; Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 149.

<sup>486</sup> Roe-Sepowitz et al., "Victim or Whore," 885.

<sup>487</sup> Owens et al., *Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States*, 149.

<sup>488</sup> Owens et al., 45.

<sup>489</sup> Lisa M. Hachey and Julia C. Phillippi, "Identification and Management of Human Trafficking Victims in the Emergency Department," *Advanced Emergency Nursing Journal* 39, no. 1 (2017): 39, <https://doi.org/10.1097/TME.0000000000000138>.



Such dynamics, augmented by cultural and social values, render victims of domestic violence, child abuse, and trafficking subject to the same vulnerabilities and barriers, which, in turn, complicate efforts to report abuse and seek assistance. Emerging scholarly research indicates that many trafficking victims are also victims of domestic violence abuse, and indicators of trafficking can be more difficult to detect.<sup>490</sup>

As provided to PPB officers and detailed elsewhere in this thesis, the testimonials of Maya and Henry illustrate how spouses and family members abuse and exploit trafficking victims. This fact helps explain why police officers often fail to identify trafficking by focusing on more familiar elements of domestic abuse. In doing so, officers both miscategorize the crime at hand and fail to disrupt the cycle of trafficking. This thesis asserts that victims of trafficking, child abuse, and domestic violence experience similar cycles of abuse and patterns of victimization, which present barriers to reporting such abuse and interfere with law enforcement efforts to identify such crimes properly.

### **1. Law Enforcement Response to Mandatory Reporting for Domestic Violence and Child Abuse—Lessons Learned**

Some scholars argue that the current law enforcement understanding of human trafficking resembles that of the early domestic violence awareness era, insofar as many ranks and file officers have not received the education and training necessary to identify trafficking indicators or trafficking-related abuse and victimization. Furthermore, officers are often unfamiliar with the statutory elements of trafficking.

This research examined current gaps in labor trafficking policies, protocols, and procedures that guide the collective U.S. law enforcement response to labor trafficking and identified parallels between trafficking, domestic violence, and child abuse issues as they relate to law enforcement. For centuries, domestic violence and child abuse were generally regarded, both from historical and cultural perspectives, as matters to be handled within families or between spouses, or as questions revolving around the issue of how to raise and discipline children; consequently, the criminal justice system largely ignored these crimes

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<sup>490</sup> Williamson, Dutch, and Clawson, *Medical Treatment of Victims of Sexual Assault and Domestic Violence and Its Applicability to Victims of Human Trafficking*, 2.

until the end of the 20th century.<sup>491</sup> Only in the late 1960s and 1970s did victim grass-roots advocacy groups and medical professionals bring the complex issues of domestic violence and child abuse victimization to the forefront of discussion, both in society at large and within criminal justice circles.<sup>492</sup>

Prior to the enactment of mandatory reporting laws, law enforcement agencies mostly employed a “hands-off” approach when responding to domestic violence incidents. In many instances, reports of domestic violence were dismissed or improperly handled as a result of officers regarding such situations as “family issues.”<sup>493</sup> Only in cases of the utmost physical harm or homicide did the police document and apprehend the perpetrators.<sup>494</sup> Before the state legislature enacted mandatory reporting laws in Oregon in the late 1970s, the PPB not only lacked an institutional understanding of domestic violence but did not have internal policies and protocols in place to assist officers in responding to and documenting domestic violence incidents; these deficiencies put victims’ safety at risk and resulted in unaddressed incidents of battery.<sup>495</sup>

Both research and victim testimonials show that, with the enactment of mandatory reporting laws, police agencies underwent a major cultural shift with respect to the manner in which they addressed domestic violence and child abuse crimes. In large part, they did so by creating clearly defined policies and investigative protocols, which enabled officers to respond to such incidents better.<sup>496</sup> The passage of federal legislation, including the Child Abuse Protection Act in 1964 and the VAWA in 1994, provided a comprehensive

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<sup>491</sup> National Child Abuse and Neglect Training and Publications Project, *The Child Abuse Prevention and Treatment Act*, 107; Erez, “Migration/Immigration, Domestic Violence and the Justice System,” 285.

<sup>492</sup> Modi, Palmer, and Armstrong, “The Role of Violence against Women Act in Addressing Intimate Partner Violence,” 254; National Child Abuse and Neglect Training and Publications Project, 4.

<sup>493</sup> Buel, “Mandatory Arrest for Domestic Violence,” 218.

<sup>494</sup> Reuland et al., *Police-Community Partnerships to Address Domestic Violence*, 3.

<sup>495</sup> Jolin and Moose, “Evaluating a Domestic Violence Program in a Community Policing Environment,” 285.

<sup>496</sup> Miller and Milligan, *Domestic Violence in Oregon*, 36.

legal framework that facilitated the development of a more robust societal response to these issues.<sup>497</sup>

As a result of such legislative reforms, local and state law enforcement agencies underwent internal reforms, which resulted in creating specialized investigative units. Police departments started to engage with victim services and advocacy communities and embedded victim specialists into their departments to ensure those investigations complied with victim-centered and trauma-informed practices.<sup>498</sup> The PPB established the DVRU and the Child Abuse Team. Both units comprised detectives and victim specialists and worked in tandem with MDTs of district attorneys, social and mental health workers, and other relevant stakeholders as a newly adapted holistic integration of specific service sectors working jointly to address the problem of family abuse.<sup>499</sup>

One of the most significant changes precipitated by the passage of mandatory reporting legislation in Oregon is the implementation of state-mandated training and education for law enforcement officers. The ORS dictate that all police officers are mandated to attend training on child abuse and domestic violence; such training affords officers foundational knowledge and skills to identify domestic violence victims, to understand cycles of trauma and abuse, and to recognize barriers to reporting such abuse.<sup>500</sup> This thesis recognizes the significance of mandatory training for law enforcement as an instrumental mechanism for ensuring (and mandating) that all law enforcement agencies receive fundamental training on domestic violence dynamics and issues.

Another critical impact of the enactment of mandatory reporting laws, in addition to the improved law enforcement responses to addressing domestic violence and child abuse crimes, was the development of statewide and national databases devoted to tracking,

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<sup>497</sup> Berney, “The Violence against Women Act Reauthorization of 2013,” 19; Stedt, *Child Maltreatment 2018*, 10.

<sup>498</sup> Reuland et al., *Police-Community Partnerships to Address Domestic Violence*, 3.

<sup>499</sup> Jolin and Moose, “Evaluating a Domestic Violence Program in a Community Policing Environment,” 285.

<sup>500</sup> Findlaw, “Oregon Domestic Violence Laws.”

collecting, analyzing, and sharing domestic violence and crime data.<sup>501</sup> Such state and national repositories on domestic violence and child abuse data proves a more comprehensive, conclusive, and accurate analysis and understanding of these issues, trends, and prevalence. In Oregon, the legislature mandates that law enforcement agencies document and report all domestic violence incidents and child abuse to the Oregon State Police-managed LEDS.<sup>502</sup> The collection and analysis of domestic violence and child abuse crime data in Oregon allows policy-makers to tailor response strategies and evaluate the existing policies adequately.

Professor Jolin's work indicates that, prior to the implementation of mandatory reporting policies, PPB officers did not categorize as domestic violence crimes any assaults that resulted in fatalities. Instead, such incidents were documented solely as homicides, without indicating relational and other relevant factors.<sup>503</sup> With the advent of mandatory reporting laws and resulting cultural and institutional paradigm shifts, the PPB has implemented a new domestic violence category for homicides, assaults, and other batteries in accordance with state law.<sup>504</sup> The creation of the statewide DVFRT, tasked with the collection and analysis of all information pertaining to domestic violence-related homicides in Oregon, offers compelling evidence of the shift in attitudes toward domestic violence crimes and their impact on public health, as well as the safety and economic prosperity of victims and their families.<sup>505</sup> This shift is apparent not only within the criminal justice system but within society as a whole.

Similar legislative frameworks were created and implemented to address the issue of child abuse exploitation.<sup>506</sup> Health care advocacy led to a heightened awareness concerning the hitherto relatively hidden phenomenon of child maltreatment and

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<sup>501</sup> Durborow et al., *Compendium of State Statutes and Policies on Domestic Violence and Health Care*, 1.

<sup>502</sup> Criminal Justice Information Services, "Law Enforcement Data Systems."

<sup>503</sup> Jolin, "Domestic Violence Legislation," 451–56.

<sup>504</sup> Jolin, 453.

<sup>505</sup> Greenawald, "Oregon's Domestic Violence Fatality Review Team (DVFRT)," 3.

<sup>506</sup> Stedt, *Child Maltreatment* 2018, 10.

exploitation. These revelations, in turn, resulted in the enactment of relevant federal and state legislation, as well as improved policies and protocols governing police responses to child abuse incidents. At present, police departments work closely with the Department of Human Services, district attorneys, and victim service agencies to investigate child abuse crimes collectively and provide wrap-around services to victims and their families.<sup>507</sup>

The police improved and reformed responses to addressing domestic violence and child abuse crimes, led to the development of statewide and national databases to track, collect, analyze, and share crime data. The UCR, a federal crime database managed by the FBI, includes annual reports and an analysis of crime trends, patterns, and general victimization regarding domestic violence and child abuse.<sup>508</sup> The Oregon legislature mandates that law enforcement document and report all domestic violence incidents and child abuse to the state police managed system called LEDS.<sup>509</sup> In addition, the PPB directive governs that police officers document all incidents of suspected domestic violence and child abuse in police reports regardless of the criminal investigation outcome or arrest.<sup>510</sup> In practice, all recorded and available incidents are then available for a further analysis of abuse patterns. Such improved and comprehensive data collection and sharing platforms further offer insights and an analysis of abuse patterns, typology of victims, perpetrators, and other relevant categories paramount for a policy and preventative response strategy development. The creation of the statewide DVFRT that collects and analyzes all domestic violence-related homicides in Oregon is the best evidence and testimony to not just criminal justice but the overall societal shift to comprehending the gravity of domestic violence crimes and its impact on public health, safety, and economic prosperity of victims and their families.<sup>511</sup>

This thesis identified that mandatory reporting laws have had a positive and monumental impact concerning the issues of police responses, law enforcement protocols,

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<sup>507</sup> City of Portland, Oregon, “Child Abuse Team (C.A.T.).”

<sup>508</sup> Wagner, *Domestic Violence and Sexual Assault Data Resource Center*, 27.

<sup>509</sup> Criminal Justice Information Services, “Law Enforcement Data Systems.”

<sup>510</sup> City of Portland, *Oregon, Directive 825.00, Protection Orders and Domestic Violence Cases*, 6.

<sup>511</sup> Greenawald, “Oregon’s Domestic Violence Fatality Review Team (DVFRT),” 4.

and data collection practices. Most importantly, law enforcement agencies and officers no longer view child abuse and domestic violence as private and family matters. Instead, with increased research and development of evidence-based policies and informed stakeholders, domestic violence and child abuse has become a matter of criminal justice and public health and human rights issues.

## **2. Law Enforcement Response to Human Trafficking— Recommendations for Improvement**

An examination of the collective response by Oregon’s law enforcement agencies and criminal justice system to human trafficking incidents revealed significant disparities in the manner in which commercial trafficking and foreign-born labor trafficking issues have been addressed relative to crimes of domestic violence and child abuse.

In 2007, Oregon legislators enacted state anti-trafficking legislation and provided a comprehensive response, prosecutorial, and prevention framework for addressing human trafficking crimes. However, since the enactment of anti-trafficking legislation, state courts have not prosecuted or convicted anyone in a single case of labor trafficking.<sup>512</sup> Evidence-based research indicates that local police officers are more cognizant of sex trafficking crimes than labor trafficking crimes. They are more educated concerning sex trafficking crimes and more aware of sex trafficking’s red flags, as well as the identification and investigations of commercial sex trafficking crimes.<sup>513</sup>

In contrast, labor trafficking crimes remain on the margins of law enforcement consciousness, and thus, comparatively unaddressed. However, as this thesis illustrates, Oregon police officers routinely encounter foreign-born labor trafficking victims in their duties. Yet, they often fail to recognize elements of labor trafficking, and instead, identify crime elements regarding those areas in which they have received training. As a result, they are familiar with these issues, as shown in the cases of Henry and Maya, in particular.

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<sup>512</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 48.

<sup>513</sup> Maloney-Dunn and Skinner, 19.

This thesis also raises a question concerning the degree to which local law enforcement officers are aware of labor trafficking statutes and the extent to which local police officers rely upon such statutes in the conduct of their human trafficking investigations. Contrary to institutional law enforcement responses with respect to commercial sex trafficking, this thesis concludes that significant deficiencies exist regarding institutional law enforcement identification, documentation, and investigation of labor trafficking crimes.

The example of the PPB's institutional shift in its creation of the Sex Trafficking Unit in 2009, in tandem with the implementation of corresponding investigative and reporting protocols and data tracking of sex trafficking cases, demonstrates the efficacy of the implementation of comprehensive internal policy and protocols reforms.<sup>514</sup> Unfortunately, such protocols are not in place to address labor trafficking cases, and the criminal justice system and other relevant stakeholders in Oregon continue to engage in uncoordinated and fragmented practices. The current system's approach to addressing FBHT is best illustrated in Figure 16, which depicts several systemic barriers to combating human trafficking successfully.<sup>515</sup>

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<sup>514</sup> Ohlsen, *Commercial Sexual Exploitation of Children*, 7.

<sup>515</sup> Maloney-Dunn and Skinner, *Modern Slavery in Our Midst*, 79.



Figure 16. Systemic Barriers to Successfully Combating Human Trafficking.<sup>516</sup>

This research argues that a well-designed, thoughtful process design of amending existing mandatory reporting laws to incorporate human trafficking crimes would significantly increase awareness of foreign-born human trafficking patterns, trends, and impacted demographics among law enforcement officers. Moreover, as indicated by findings presented in this research, the incorporation of trafficking crimes into states' existing mandatory reporting frameworks would likely improve law enforcement efforts to identify and investigate such crimes. Furthermore, the addition of human trafficking crimes to the existing mandatory reporting framework would provide pathways for numerous initiatives:

- Statewide mandatory training and education concerning all aspects of human trafficking, labor trafficking issues included. Such training is of

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<sup>516</sup> Source: Maloney-Dunn and Skinner, 79–80.



vital importance in the establishment of a foundation of knowledge and skills necessary to identify and investigate labor trafficking crimes.<sup>517</sup>

- Promotion of efforts by police agencies statewide to collect, track, analyze, and integrate commercial sex and labor trafficking data for the purpose of assessing the scope and patterns of trafficking occurring in Oregon.<sup>518</sup>
- Creation of statewide labor trafficking task forces and engaging multidisciplinary sectors in sharing best practices, working specific labor trafficking cases, and connecting possible victims with resources and support. Such actions would mirror the efforts of sex trafficking task forces previously established by the Oregon DOJ.<sup>519</sup>

Using the model of the foundational framework established by mandatory reporting laws relative to crimes of domestic violence and child abuse, this thesis proposes to make human trafficking crimes a mandatory reporting category.

### **C. OPPORTUNITIES FOR FURTHER RESEARCH**

This thesis has shown how mandatory reporting laws have influenced law enforcement agencies' approach to combating domestic violence and child abuse. Notably, the enactment of such laws and their influence on law enforcement practices, have led to the creation and integration of accurate and conclusive crime data collection and analysis platforms.

This research points out commonalities among victims of human trafficking and domestic violence and child abuse and demonstrates how the inclusion of human trafficking crimes into existing mandatory reporting frameworks likely will improve the collective law enforcement response to such criminal activity. However, it is paramount

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<sup>517</sup> Oregon Advisory Committee, *Human Trafficking in Oregon*, 34.

<sup>518</sup> Oregon Advisory Committee, 33.

<sup>519</sup> Oregon Advisory Committee, 35.

that the principle of no harm guides any contemplation of or efforts to incorporate human trafficking crimes into existing mandatory reporting frameworks. This research recommends extensive analysis and further study of existing mandatory reporting policies related to domestic violence and child abuse to identify possible deficiencies and mitigate potential adverse outcomes prior to amending current mandatory reporting requirements.

The inclusion of all voices, particularly trafficking victims and survivors, is an essential element of any efforts to develop an ethical, mindfully constructed policy roadmap. Further research concerning the creation of effective, sustainable infrastructures for human trafficking-focused mandatory training for police officers and other stakeholders is necessary.

This research recognizes that any monumental changes in practices, attitudes, and infrastructure development require time to process. Excerpts from research set forth in this thesis support the notion that institutional change is slow and timely. That fact notwithstanding, evidence and studies on domestic violence and child abuse illustrate that such institutional change is possible.

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